

SPECIAL COUNCIL MEETING  
COUNCIL-MANAGER FORM OF GOVERNMENT WORKSHOP

FEBRUARY 4, 2016

The Special Council Meeting Council-Manager Form of Government Workshop of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Thursday, February 4, 2016 at 8:35 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock  
Honorable Gary L. Hooser (*present at 8:40 a.m.*)  
Honorable Arryl Kaneshiro  
Honorable KipuKai Kuali'i (*excused at 1:55 p.m.*)  
Honorable JoAnn A. Yukimura  
Honorable Mel Rapozo

Excused:     Honorable Ross Kagawa

APPROVAL OF AGENDA.

Councilmember Hooser moved for approval of the agenda as circulated, seconded by Councilmember Kagawa.

Council Chair Rapozo:                      Discussion?    Seeing none, all in favor say, "Aye."

The motion for approval of the agenda was then put, and carried by a vote of 5:0:2:0 (*Councilmembers Hooser and Kagawa were excused*).

COUNCIL-MANAGER FORM OF GOVERNMENT WORKSHOP:

The Kaua'i County Council will hold a Workshop to discuss revisions to Articles I through XXXII of the Kaua'i County Charter that would result in a new County Charter changing the governmental structure of the County of Kaua'i from the current system to a council-manager form of County government.

Council Chair Rapozo:                      First, thank you all for coming today, Councilmembers. We had a long day yesterday and to the members of the public, thank you for coming. This is a workshop. The intent of the Chair is to run it as a workshop meaning that we will have as much dialogue with the community as possible. This is a workshop; therefore, questions will obviously be encouraged. In front of you is a list of topics, as well as the...I do not know what you call this – a stack of papers that list all the amendments that would need to be changed, should we decide to put this in a form of a Charter Amendment. Peter Morimoto, our Legal Analyst, has worked very hard and I thank him and the Staff for getting this together, but this morning Peter counted approximately sixty-four (64), and yesterday I think I said, twelve (12) or fifteen (15), but in reality, there are at least sixty-four (64) portions of the Charter that would have to be changed to make this happen. Our Charter obviously restricts charter amendments on the ballot to only include one (1)

amendment. The first decision is a very simple one, which is, "Do we put up sixty-four (64) Charter Amendments on the ballot or do we propose a new Charter?" I think that answer is an easy one. We would have to do it in a form of a whole new Charter. Is there any discussion? Let us just start with that. Is there any opposition to that? I do not think there is any other way we can do it. Moving forward, there will be the assumption that an entire Charter will have to be proposed. Thank you very much. I want to start by having some dialogue amongst us and I am going to defer, throughout this workshop, to Councilmember Chock who was the Chair of the Sub-Committee that we put together which included Councilmember Kaneshiro and Councilmember Kualii. I think a lot of the questions that we have can be answered by them. As you see on the list of topics, these are the topics that Peter and I have gone through and determined to be the key topics that we would have to discuss. We will need five (5) votes to put this new Charter on the ballot. Before we start, I just wanted to have some discussion about how we want to proceed? Does anyone have any thoughts? I am looking at the list of topics and we can go right down the list and we will see how far we can get. We have this scheduled until 4:30 p.m. today, but like I said yesterday, if there is no consensus as we move forward and it is clear that there is no agreement...we only have five (5) members here, so it is kind of difficult. I think we heard Councilmember Kagawa's position yesterday. We can assume his response and I am assuming Councilmember Hooser will be here shortly. Any discussion before we start?

Councilmember Yukimura: Mr. Morimoto has been preparing a resolution for me, as I said I would. There is a whole portion on budget that I think has to be included from the Charter. I do not...

PETER MORIMOTO, Legal Analyst: It is on the second page at the bottom.

Councilmember Yukimura: Is this the only section regarding the budget that needs to be changed? This is not paginated, so how are we going to refer to it?

Mr. Morimoto: By section.

Councilmember Yukimura: Okay. I would like to ask that it be paginated next time.

Council Chair Rapozo: As we sit back and wait, maybe we can just quickly jot page numbers down. Which one are you looking at, Councilmember Yukimura?

Councilmember Yukimura: I am trying to find it. Section 10.4.

Councilmember Kualii: Section 10.4.

Councilmember Yukimura: So, is this the only part of the budget making process of the Charter? Yes or no?

Mr. Morimoto: Pardon?

Councilmember Yukimura: Maybe you need to be at a microphone.

Council Chair Rapozo: Peter, can you sit in Councilmember Kagawa's seat? Councilmember Yukimura is asking if all the sections that address the budget, the submission of the budget, and the...

Mr. Morimoto: No, the chart that I provided to the Council with the questions in the right-hand column only include the sections that refer to the Mayor. Where the word, "Mayor" was noted in the Charter. I laid out all of those sections.

Councilmember Yukimura: I believe that in the budget process there are various roles of the Mayor and it is going to have to be designated, which is the Managing Director's role and Mayor's role. I think we have to look at those sections too, although I have not had the time to really look...

Mr. Morimoto: If you look at Section 19.02.

Councilmember Yukimura: Okay.

Mr. Morimoto: Beginning of Section 19.02.

Councilmember Yukimura: Okay.

Mr. Morimoto: That is the budget provision.

Councilmember Yukimura: Okay. Are we going to cover that today?

GLENN MICKENS: Can we get a copy of what you are doing?

Council Chair Rapozo: Staff, can you make copies available to the public?

Mr. Morimoto: Council Chair?

Council Chair Rapozo: Yes.

Mr. Morimoto: The chart that I provided with the list of sections that referred to the Mayor, also have my thoughts on it, so to speak. I am not quite sure if that should be shared with the public, but the list of topics, I am sure can be.

Council Chair Rapozo: Okay. Let us provide the list of topics to the public.

Councilmember Yukimura: Your thoughts are in the right-hand column.

Mr. Morimoto: Correct. I provided that to you...

Councilmember Yukimura: Yes, but those are the questions of policy that have to be made so why would they not be allowed?

Mr. Morimoto: Some of them are legal in nature and may require addressing by the County Attorney, and for that reason I suggest you not share it with the public. It is up to you if you want to share it, go ahead.

Councilmember Yukimura: What exactly are we going to give the public? Oh, this list of topics? It is up to the Chair.

Council Chair Rapozo: I will leave it up to the author because I am not sure...I have not gone through all of the topics yet, but from what I have seen, I do not see anything that would be detrimental. Again, I will leave it up to Mr. Morimoto. Peter, is it possible to provide the document without the comments?

Mr. Morimoto: That is what Councilmember Kaneshiro suggested and I think that is good.

Council Chair Rapozo: Can we have Staff clean it out and provide that copy to the public?

Mr. Morimoto: Sure.

Council Chair Rapozo: That will be sufficient, I think. Thank you. Okay, I will let you take care of that.

Councilmember Chock: I do see on the list of topics, "Budget – Formulation and Administration," for us to look at as we go through this. The only other piece would be some of the...we talk about duties of the Mayor, but I do not know if I see duties of the Council as well, which may need to be looked at as we move through this. Not as big of an item as the others, but...

Councilmember Yukimura: But that is true though because...

Council Chair Rapozo: We will have to have that discussion, but I think when you look at the current Charter and the duties of the Council, that would not require a Charter Amendment. The duties of the Council would not change, as far as the duties section of the Council. But yes, we will definitely have that discussion.

Councilmember Chock: Okay.

Council Chair Rapozo: Again, this is a workshop, so in compliance with the Sunshine Law, we had to post in a way that we could discuss all the items that we needed to and not be limited. We were successful with that so we can basically discuss any part of this, if we wanted to.

Councilmember Kualii: When you were summarizing it yesterday, I thought of it more as the four (4) or five (5) biggest things. Start with the simple...it is not simple, but the basic structure and then if we can get passed the first four (4) or five (5) things, then move on to some of these more detailed items. Some of the more detailed items might be really lengthy discussions, but the simple discussions, the quick decisions like whether the Mayor will be elected by the people or chosen or appointed by the Council, those basic considerations.

Council Chair Rapozo: That is the plan.

Councilmember Kualii: And the term of the Council and best practices...

Council Chair Rapozo: I hate to put him on the spot, but I am confident that he is familiar because he has been doing this for so long, but there is...ICMA has best practices. What I would suggest is that as we move forward...and we will start with the top item, "Manager – the selection of the manager." If we cannot get passed the selection of the manager and we cannot agree on how this person will be selected then it is kind of rough. Like I told you yesterday, Mr. Mickens, you cannot get to first base, you cannot score the run. The plan is to do it that way. We will start with the Selection of the Manager. I would ask Councilmember Chock if he can at least talk about some of the best practices, and then we will have the discussion to see where everyone is at. Again, I was going to open it up the discussion for the public. We already know the public's feeling as far as whether or not we need a change. I am more interested today in learning from you the specifics as it relates to the specific topics. Everyone knows your positions as far as what we need to do, but I am more interested in hearing from the public – let us say, when we are talking about the selection. We heard yesterday what Mr. Taylor thinks we need to do, but if there is a desire...first, I am going to have the discussion with the Councilmembers, and then have the members of the public come up.

KEN TAYLOR: Are you going to take one (1) item at a time?

Council Chair Rapozo: Yes.

Mr. Taylor: Thank you.

Councilmember Kualii: One (1) item at a time might not be most sufficient. I think we could deal with selection, as an example, therefore the selection of the Manager, the Council, and the Mayor. We, the Council, can quickly express what we believe and then get a sense of the five (5) of us and then we hear from the public on those three (3) items.

Councilmember Yukimura: It is going to be long if we have public input on every single...

Councilmember Kualii: That is why I am suggesting that we "group it."

Councilmember Yukimura: We should go through it item by item and then the public can give us their input. This thing is going to go out to the larger public and that is when the input comes in, but to have...unless we have these people here be part of the drafting committee and if that is the case, it should not be a public meeting. It should be the drafting of something that then comes up to a public meeting.

Council Chair Rapozo: That is one (1) option and if that is the feeling of this body, that is fine. We can do it that way. I sense a workshop as a workshop with the public. We do not do this often and sometimes we call workshops, "workshops" but they are not workshops. They are committee meetings disguised as workshops. With that, I want the public to understand too that this is not an opportunity for you to come up and blast the Mayor system or the...it is really to be constructive and what you have learned in your experiences. That is what I want to

get out of this today. We already know how everyone feels. Now, we are trying to put this together and I am trying to prove Councilmember Yukimura wrong that it will not take over a year, but I am beginning to think she is right. Councilmember Yukimura that was no disrespect. That was a compliment.

Councilmember Yukimura: I was not taking it as a criticism.

Council Chair Rapozo: I would ask the public to keep that in mind and use this as constructive time to be part of this process.

Councilmember Kaneshiro: I am on the same wavelength as you. We know pretty much everybody's idea on whether they want it or not, but of course the "devil is in the details." It is a workshop and we want to hear from people as far as how they think it should go. I think that is what is holding everybody up. If they can say it really quickly because we do not need to go over the same thing on, "Why it is better," but say we look at the topic of the Manager and go through the selection and duties. Let us give the public a minute to say, "Yes, I agree that the selection should be this way," or, "The duties should be this." Something real quick. It is a workshop where everybody should be involved, but I also do not want to go through six (6) minutes per testimony on each item.

Council Chair Rapozo: No, no. That is where I am asking for the public's cooperation. If you have an idea or thought, come up, and say a thought – but not three (3) minutes. We will not use the light-bar. You do not need to use three (3) minutes to say a thirty (30) second tidbit, so I will be asking for that cooperation.

Councilmember Hooser: I am assuming that we will have a far-ranging discussion on these items today and then someone, if there is some move, will draft...

Council Chair Rapozo: Councilmember Yukimura is drafting one.

Councilmember Hooser: Drafted a proposed bill?

Council Chair Rapozo: Or she is working on one, yes.

Councilmember Hooser: Okay. And then we will work off that as we move forward.

Council Chair Rapozo: Yes. The idea was to have this workshop and if someone was not going to do it, I would, to have a resolution presented.

Councilmember Hooser: Perhaps this question is for Councilmember Yukimura, because it has been expressed in the past that it might take a year or more to draft something and do the details, if that is the case then we need to know that too. If someone wants to do it earlier, maybe there needs to be another draft.

Council Chair Rapozo: You bring up a good point. The workshop was to basically provide the basic fundamentals of structure for a resolution that had a chance to pass.

Councilmember Hooser: Okay.

Council Chair Rapozo: I am prepared to introduce that at some point. I am not sure what Councilmember Yukimura is proposing. Today's workshop is to be open about this process and I am going to ask all Councilmembers to not try to convince the others that your resolution is the right way. We want to make sure that we have the open discussion on all these topics.

Councilmember Hooser: Will we hear from the Charter Review Commission today?

Council Chair Rapozo: I see Mr. Furfaro here.

Councilmember Hooser: In terms of the status of whether they are moving something forward or not.

Council Chair Rapozo: We already got something from Mr. Furfaro that there is no movement on this and we have that in a memorandum form as well. Can we provide that memorandum for the members?

Councilmember Yukimura: When I volunteered to do this, I did not...nobody has done this before so I cannot tell you how long it will take. I can start right away as I did and I asked Peter to draft it and this is what he gave me.

Mr. Morimoto: That is not what I gave you.

Councilmember Yukimura: Okay, well it looked like what you gave me.

Mr. Morimoto: I E-mailed you something last week.

Councilmember Yukimura: Yes.

Mr. Morimoto: That is not it.

Councilmember Yukimura: But you also sent me this because that is what I...

Mr. Morimoto: I sent that to you a few weeks ago.

Councilmember Yukimura: Yes. Usually, we work on a draft and then we have a draft and then we get public input. It is fine to do it this way, except that I, too do not want to go over six (6) minutes of testimony per person on each section. That is not an efficient way to use our time and usually I would develop a drafting committee that works with me, which would be with people who want a piece to pass. We do not know all the pieces so we have to start and that is what I wanted to do. My commitment was to think it through so we would not put something on the agenda that if it passed, would have all kinds of unworked things; things that have not been worked out and would cause lawsuits and questions. I wanted something that if it passes would actually have a chance to work because the details have been thought through. The different parts of the Charter have been synchronized.

Councilmember Hooser: Okay.

Council Chair Rapozo: I think if you look at the documents here today, that is exactly what the intent is. Thank you, Peter, for putting everything down on paper so that we can see if we change one section, we have to change another.

Councilmember Hooser: Because of Councilmember Yukimura's admirable, meticulous attention to detail, my concern would be that we would not have the likelihood of having a vehicle to move out for the selection. That would not be likely.

Councilmember Yukimura: That is not true.

Councilmember Hooser: I am complimenting you in that, at the same time.

Councilmember Kualii: Anybody can put something forward.

Council Chair Rapozo: Exactly.

Councilmember Kualii: If you can do one tomorrow, do it.

Council Chair Rapozo: Yes. I think I made that perfectly clear that any member can do the resolution and if I, myself, personally believe that we have consensus on a proposal that would pass, then I would introduce it. No one has been assigned the duty. Any member can introduce something. More importantly, it is nine o'clock (9:00 a.m.) and I stated the format of the workshop and I would really want to get started, because I do agree with Councilmember Kualii that we should look at the selection of the Manager, the Council, and the Mayor. Let us do that first. Let me start by asking Councilmember Chock, as far as the International City/County Management Association's (ICMA's) concern, what you have found, and what would be our best practice as far as the selection of the Manager.

Councilmember Chock: In my presentation, we went over qualifications, so I do not know if you want to start with that first or if you want to start with process.

Council Chair Rapozo: Let us start with process. Let us agree on how it is this person will be elected or appointed.

Councilmember Kualii: Councilmember Chock, ICMA did not have a best practice as far as how the Manager is selected, or was it by the Council?

Councilmember Chock: Let me just pull up my notes here.

Councilmember Kualii: My personal preference is the majority of the Council.

Council Chair Rapozo: Let me do it this way, does anyone have an objection? I want to move this along as quick as I can. Does anyone have an objection to the selection being made by the majority of the Council meaning four (4) members of the Council?

Councilmember Yukimura: I do not see anything in here, and correct me if I am wrong, about the Managing Director.



Council Chair Rapozo: We are not talking about the Managing Director. We are talking about the selection of the...

Councilmember Kualii: The new County Manager.

Councilmember Yukimura: That is what I am talking about.

Council Chair Rapozo: It is not the Managing Director.

Councilmember Yukimura: I would like to see a provision where there is...

Councilmember Kualii: Nadine's position?

Councilmember Yukimura: ...nothing in our Charter or in this draft, we need to see a model ICMA provision about the Manager. Where there is a vacuum or an absence of something to begin with, we begin with the ICMA's provisions or several of their selected provisions, which...

Councilmember Chock: I think we are asking about broad questions first and then we will go back into the charter work. I think it is important that we first have a discussion on where we are sitting with the direction of each of these larger items.

Councilmember Yukimura: But I think a written thing will show us what we have to think about and it will show us how you lay out qualifications, process for selection...

Council Chair Rapozo: Councilmember Yukimura, if we cannot get through an agreement of how this person is selected, then that is moot is what I am trying to say.

Councilmember Yukimura: I am saying that referring to those sections will give us some idea about how you select a person.

Council Chair Rapozo: It is simple – the Council selects him or he is elected. There are two (2) options. It is four (4) members or five (5) members.

Councilmember Yukimura: Okay.

Council Chair Rapozo: That is what I am talking about. I have asked a simple question. Is there any objection to the County Manager being appointed by the majority of the Council?

Councilmember Yukimura: I object.

Councilmember Hooser: What is the best practice?

Councilmember Yukimura: Yes.

Councilmember Chock: The majority of Managers are selected by the Council or Commission.

Councilmember Hooser: By a majority or supermajority?

Councilmember Chock: Either. I do not have statistics of which one is more popular, but overall selected by the Council.

Council Chair Rapozo: I think as Councilmember Chock and I had gone to Seattle and the people I had spoken to, it seems like the appointment was by the majority. I do not have the statistics, but I am just saying that the appointment was made by the majority, much like how our Auditor is selected which is by the majority and removal by the supermajority.

Councilmember Hooser: For what is worth...that to me is a question that the Council should appoint it and it is a majority or supermajority. The Auditor is by majority and removed by supermajority?

Council Chair Rapozo: The removal is supermajority. There is no clear definition of how he or she is appointed. We have made that policy, but it is not in the Charter.

Councilmember Hooser: Okay. So, right now our policy for the Auditor is a majority; four (4) of the seven (7) members...

Council Chair Rapozo: No, it just says, "The Auditor shall be appointed by the Council."

Councilmember Hooser: But the practice.

Council Chair Rapozo: Yes, by four (4).

Councilmember Hooser: Okay, the practice is by four (4).

Council Chair Rapozo: Right.

Councilmember Hooser: And just to restate, there is no clear guidance by the industry whether it is a majority or supermajority?

Councilmember Chock: No.

Council Chair Rapozo: My suggestion is that our Charter, should it go forward, would be specific as to the appointment being either a majority or supermajority. I do not want to leave it in the hands of the Chair, Mayor, or whoever it may be. I want it to be clear.

Councilmember Hooser: I agree with that.

Council Chair Rapozo: Does anyone have an objection to the Council Manager being appointed by the Council? Not numbers, by the Council? No objection – okay. Somebody is taking notes, I hope. The next question is should it be by a majority or supermajority?

Councilmember Yukimura: I think it is important that it be a supermajority. We heard from the expert who came from ICMA said that he would

not take a job if the whole Council did not elect him. That is why I think as much consensus as possible is necessary to have a good start because we are looking for a unified group. The minority should be taken into account as much as possible.

Councilmember Hooser: I think we all know this. We are looking for a starting point of a solid discussion and once we get that, it will go out to the public and then maybe further information will say that we changed our minds and amend it differently. We are looking for a good solid starting point with the information we have available.

Councilmember Chock: I am all for a supermajority. The messages that I got was that we want all members to be fully invested in this relationship of hiring a County Manager. I would say if we could do more, it would be better – because we want all seven (7).

Council Chair Rapozo: Yes. I think we need to account for in the event you do not have seven (7) and you are stuck. I do not have an objection to a supermajority at all.

Councilmember Kualii: No objections.

Council Chair Rapozo: We could assume that the removal would be by the same, right. Any opposition to that?

Councilmember Chock: Yes, that is correct. There are a couple things to think about. The contract is definitely part of it, so how we create that model contract for the Manager. It is done both ways: majority or supermajority, or for cause. That would be by vote again as well.

Council Chair Rapozo: Let us jump right into the selection of the Council and the Mayor. Let us start with the Council. On your handout, you will see the length, staggered, and district or at-large. That is an entirely different discussion in itself. I think the Charter Review Commission is working on a districting proposal, so there may be an issue where you would have conflicting amendments. Peter and I had this discussion that you almost have to leave it out, in my opinion, because in the event the Charter Review Commission's proposal gets on the ballot and passes and it conflicts with what we decide to put on the ballot, we will have a problem. As opposed to leaving the Council terms as-is and leaving the Charter Review Commission's proposal to stand wherever it stands and let the chips fall. Otherwise, we will end up with a conflict. I am not sure how we would resolve that conflict if, in fact, the Charter Review Commission has a districting proposal that passes and this Charter Amendment passes and it is in conflict. That is the discussion we need to have.

Councilmember Yukimura: It is possible that we could have a discussion with the commission and if there is agreement, we include their proposal in this one. I think the districting issue is so big that it needs to be done separately from the Council-Manager position and should be delayed if we are going to go with a Council-Manager. We should stay with the present format, though we should change it to probably four (4) years and then do the districting once we get the Council-Manager format in place on this island.

Councilmember Kualii: For me, it is less about the districting and more about the staggered terms because the best practice by ICMA is that in order to

have some consistency or continued relationship with the Council-Manager, you do not want the entire Council to turn over in two (2) years. With the current system, that could happen. Having a hybrid of two (2) and four (4) year terms and maybe a hybrid of some districts and some at-large, which would allow for not a full turnover every two (2) years, that there would be some carryover of positions. To me, it is less about the districts, even though I am fine of having a hybrid of some districts and some at-large and more about not having everything turnover every two (2) years, so maybe having some two (2) year terms and four (4) year terms and not everybody up every two (2) years.

Councilmember Chock: The term limit is what you were talking about in terms of question.

Councilmember Kualii: Yes.

*(Council Chair Rapozo, the presiding officer, relinquished Chairmanship to Councilmember Kualii.)*

Councilmember Chock: Just in the larger scope of these discussions, I agree that they need to happen as far as with the Commission and supported by us separately. We need to consider...if we take a step back and try to figure out what it is we are trying to deliver, we might want to think about smaller steps that can be taken over time and what can we realistically get done if it is such a big piece to chew off of in our charter.

Councilmember Kualii: Councilmember Kaneshiro and then Councilmember Yukimura.

Councilmember Kaneshiro: I am on the same page as Councilmember Kualii. If I came up with a question, "Do I want two (2) or four (4) year terms," I am not really sure, but when it comes to best manager and practices, I think having staggered terms makes sense than when you think about the practicality of a two (2) year term staggered and have an election every year. I do not think that makes sense. For me, I would not be in full agreement with the four (4) year term, but for all practical purposes, it would be a four (4) year term staggered and no election every single year, which would cost us a lot of money.

Councilmember Yukimura: I think it might be useful to have Mr. Parachini speak. He is from the Charter Review Commission.

JAY FURFARO, Boards & Commissions Administrator: I want to remind you that a single member needs the majority of the Commission to speak for the Commission, but they cannot speak for themselves individually.

Councilmember Yukimura: Well maybe he could just tell us what the plan is with respect to districts.

Councilmember Hooser: Help me with the context a little bit. Are we talking about putting these kinds of provisions in some kind of master charter amendment or to one concurrently? I understand best practice is to have staggered terms, but are we talking about a manager proposal with their staggered terms within it or two (2) separate proposals?

Councilmember Kuali'i: Council Chair Rapozo could come in and say something differently, but I think the idea that there are so many changes in the Charter and that this should be looked at as one (1) vote to change the Charter.

Councilmember Hooser: To make all these changes?

Councilmember Kuali'i: To make all the changes that accommodates what would be best if we had a county manager system.

Councilmember Yukimura: We already decided that at the beginning of this meeting.

Councilmember Kuali'i: We are only talking about everywhere the word "Mayor" comes up.

Councilmember Yukimura: No. If it is a new charter, in the new charter that is proposed you are going to have what the Council is going to look like and what terms and everything...it is a new charter.

Councilmember Kuali'i: Yes.

Councilmember Yukimura: It is going to have every provision in the new Charter.

Councilmember Kuali'i: Therefore, potentially you could have things in this one (1) great proposal that people support and things that they do not support, so they may end up voting against it.

Councilmember Yukimura: That is correct.

Councilmember Hooser: So it would be one (1) vote that changes all of these aspects. Not just one (1) vote for the County-Manager...

Councilmember Kuali'i: So, we have to carefully...

Councilmember Hooser: ...plus the staggered terms...but they do not have to be tied though...

Councilmember Yukimura: They do because if the public votes for one part of the Charter in this sense and the public votes for another part of the Charter, they do not jive.

Councilmember Hooser: But we could have a County-Manager vote that keeps the Council terms the same as they are – two (2) year terms without districts, we could.

Councilmember Yukimura: You could, but it has to be...

Councilmember Hooser: Wait...let me finish please. So, we could have votes like that and then have separate charter amendments, if we wanted to, to keep the issues separate. I understand that best practices are staggered, but I am just saying that it does not have to be all this "Mother of all Charter Amendments," to change everything – it does not have to be.

Councilmember Kualii: It is basically our decision as the body putting it forward, as the body that is doing the deep deliberation to package it or not.

Councilmember Hooser: Right.

Councilmember Kualii: And it might be best for the voters to...then we can do the education on the most important pieces, but the vote is still one (1) vote.

Councilmember Hooser: I understand. Thank you.

Councilmember Chock: I agree. I think that is a decision we have to make. We are going to attack these that have not been vetted through the Commission or that is so big that we do not want to take it on in this round. The districting is something that is being looked at, so that is why I think...that has a huge impact in terms of the Council's make up and the Mayor's make up. Perhaps that is something of a best practice that we want to move forward in the future and have a process that would help to get us to where we want to get to in the future.

Councilmember Yukimura: If you have a complete new Charter proposed and you have a separate districting proposal or even a Council term proposal and both pass and they conflict, it is not going to work.

Councilmember Kualii: Correct.

Councilmember Yukimura: That is the problem. You have to have...if you are going to propose this Council-Manager format of government, you have to have the entire thing proposed because all the parts have to work together.

Councilmember Kualii: That is why your point about working with the Charter Review Commission to incorporate what they are working on into this is a wise one. We need to get there before things get put on the ballot because we do not want to put two (2) different potentially conflicting items regarding districting on the ballot and make it more confusing for the voters and not being able to implement either because they conflict. We would have to work that out in advance.

*(Councilmember Kualii returned Chairmanship duties to Council Chair Rapozo.)*

Councilmember Yukimura: Since the Chair is back, I believe at the beginning of this meeting, we decided that we wanted to put a new Charter on because that was the most practical and feasible way.

Councilmember Hooser: Just to clarify. There are many, many parts to the Charter including the County Auditor and the parts on all the other things. So, we are not talking about an entirely new charter, we are talking about a...

Council Chair Rapozo: An entirely new charter.

Councilmember Hooser: So, all those other sections?

Council Chair Rapozo: Would be transposed.

Councilmember Hooser: We are amending the Charter. It is a charter amendment.

Council Chair Rapozo: It is a charter amendment, but it will be one (1) vote that basically says, "Do you believe the charter of the...", but it will be a new charter...

Councilmember Kualii: You have to highlight the changes.

Council Chair Rapozo: ...and would have to reference the substantial changes.

Councilmember Hooser: Right, but it does not necessarily have to touch every single aspect of the existing Charter.

Council Chair Rapozo: No, it would. It would have to be a whole new charter.

Councilmember Yukimura: But parts of the Charter regarding the Auditor would not be changed in the new charter proposal.

Council Chair Rapozo: It would be like how we amend the bill with brackets. It will be a brand new charter, but everything that we are not changing is going to be in the new charter as well. It is not amending the Charter, in a sense. It is proposing a brand new charter because the Charter is very specific that an amendment can only address one (1) amendment/one (1) change and we have sixty-four (64).

Councilmember Yukimura: Because they have to be interrelated.

Council Chair Rapozo: Correct.

Councilmember Kaneshiro: As we were discussing the terms of the Council, for me, I do not want to throw a wrench in it, but for me the terms of the Council will depend how a Mayor is chosen. If the Mayor is chosen in a separate election, then how do we do that? Do we have an election every year and the Mayor runs a certain election and the Council is another election? I think it would be easier to see how the Council term would be if we knew how we are selecting the Mayor. Is the Mayor running with the Council every two (2) years or four (4) years?

Councilmember Yukimura: A Mayor is a four (4) year term and as one who has served in a two (2) year term as Mayor, that is ridiculous because you are running every other year. I do not think we are looking at changing the Mayor's term from four (4) years to two (2) years. Unless we are extending it from four (4) years to six (6) years, that is another thing, but four (4) year term for Mayor and four (4) year term for Council should do it.

Council Chair Rapozo: You need to remember that the Mayor in this system is not the Mayor of today's system. It is not the same. The Mayor in this system would be a Councilmember. He or she would be no different than a Councilmember.

Councilmember Yukimura: Oh, I see.

Council Chair Rapozo: If you ask me, I think it should be four (4) and four (4); the Mayor and the Council would be four (4) years. That way there is no departure from the Mayor...but remember the Mayor would be more of a Councilmember than an executive.

Councilmember Yukimura: But I think what Councilmember Kaneshiro is saying is that if you choose the Mayor, then there will be six (6) Councilmembers. So, those would be the staggered ones and people would either run for Mayor or for Council.

Councilmember Kaneshiro: See again, I am not sure, we need to decide is the Mayor going to be elected by the Councilmembers or by the highest votes? If everybody runs for a Council and Mayor's seat, you just call it a Council or Mayor seat then the Councilmembers decide who is going to be the Mayor. I do not know how it will go.

Council Chair Rapozo: Okay, let us take the first question. Obviously, no one will object to the Council being elected the same way it is now. People are going to vote for the Council. The question is as far as the Mayor's concern, is the Mayor going to be elected by the people or is the Mayor going to be appointed as one of the seven (7) Councilmembers? In other words, are the people going to vote for six (6) Councilmembers and one (1) Mayor or the seven (7) Councilmembers and the seven (7) Councilmembers select the Mayor, as they do the Chair now?

Councilmember Yukimura: It is going to be by the people.

Council Chair Rapozo: Okay.

Councilmember Kaneshiro: But again, I am trying to think of this logistically. When you run, say we want to run, the seven (7) members, we have to decide are we going to be Mayor or Council?

Councilmember Yukimura: Absolutely.

Council Chair Rapozo: Right. You would have to decide whether or not you want to be the Mayor...

Councilmember Yukimura: Like now.

Councilmember Kualifi: Is the Mayor necessarily the Chair, is my question? Does the Mayor have to be one of the seven (7) or can there be an eighth (8<sup>th</sup>) position, which does not sit on the Council because the Council can still operate as it does with seven (7) members that select their Chair and the Mayor could be another position that handles all the ceremonial duties, public information, public relations, Boards & Commissions, community outreach, et cetera; therefore, he or she would still be working with the Council, but would not be sitting at the table making policy with the Council. That was the third option, if you are wondering. The voters would vote in that Mayor.

Council Chair Rapozo: It seems to me the easiest way to do this would be to have the six (6) Councilmembers elected by the people so it would be no



different than now. There would be a separate race for the Mayor that would be the seventh (7<sup>th</sup>) member of the Council. That Mayor would become the Chair or Mayor, whatever you want to call it, of the Council, and they would all serve for four (4) years. If you look on your list, "Most votes," I do not support the "most votes." The other option is if we...people vote for seven (7) and then the seven (7) members will select the Mayor. I am suggesting and proposing that there will be an election for six (6) Councilmembers and a separate election for the Mayor. That would be the selection.

Councilmember Kaneshiro: My concern, and I am not trying to make it difficult, but we can have three (3) very good Councilmembers that want to be Chair or the Mayor. If the Mayor is the Chair then they would want to be the Mayor and they would have to make the decision, "Am I going to run for Mayor and risk a one out of one seat or am I going to run for Council and get a one out of six seat?"

Council Chair Rapozo: Councilmember Yukimura and I know that quite well.

Councilmember Yukimura: So you make the decision.

Council Chair Rapozo: You make a choice. That is no different than running...it is just one of those things where if you want to be the Mayor, then you give up your seat on the Council.

Councilmember Yukimura: Yes, if you want to be a Councilmember or you want to run for Congress – you make that choice.

Councilmember Kualii'i: Is it wise to let the people pick the person who manages the seven (7) body, rather than let the seven (7) body pick their leader, their Chair? I think that was the ICMA suggestion, too.

Council Chair Rapozo: On this island, I think if you take away the people's ability to vote for a Mayor, it will not pass.

Councilmember Kualii'i: That is why I had the eighth (8<sup>th</sup>) position.

Council Chair Rapozo: I agree with you, I think the seven (7) members of the Council should pick their leader, but I do not think that will have any success going forward. If we are going to put something forward, I obviously want to see something that passes. I can live with the people selecting their Mayor. I think it is a great thing. I do not have a problem with that and then we will take it from there. I do not agree with the eighth (8<sup>th</sup>) member. I think it will complicate things. I think you would have an eighth (8<sup>th</sup>) member that would be nonvoting because you would have deadlock with a 4:4 tie. I think the Chair or the Mayor would be the ceremonial person anyway. That would be part of the person's duties.

Councilmember Kualii'i: Along with being Chair.

Council Chair Rapozo: Right after we have this discussion, I will open it up because I see everybody's hands going up.

Councilmember Chock: I concur. The easier transition is for seven (7) and I agree, I think it is also better that we have the people vote in their Mayor and the Mayor becomes the Chair. There are some dynamics that would occur on the

Council for instance, if the Mayor/Chair did not have a majority. It is just an inevitability of the way the dynamics of the Council would be, which is just something to consider is all I am saying.

Council Chair Rapozo: That might not be a bad thing either. Obviously, I do not have a majority – it happened yesterday.

Councilmember Chock: That is the only other thing – if you vote it in, then that person is chosen by the Council to lead.

Councilmember Yukimura: And when we define the duties of the Mayor, you would hope that the people would vote for the Mayor that would do the duties that he is supposed to do well.

Council Chair Rapozo: Exactly.

Councilmember Yukimura: So they will choose somebody who hopefully will be a good Chair and also a good ceremonial person, if that is going to be the duties. But it will be a different context from the Mayor right now who supposedly has to have some real managerial experience.

Council Chair Rapozo: The way we define the duties of the Mayor is going to determine how many Councilmembers are going to want to give up a Council seat to be that Mayor.

Councilmember Kaneshiro: That is the point I am trying to make. For our Mayor in our current system and a Mayor in the new system, I see the Mayor in the new system basically being the Chair. I mean he does not have much more power than the Chair right now, besides he will have to go to all of the events. What is the benefit of running for a Mayor besides having to be the Chair and going to all of the events? It is the same as the Council now. We do not have a Mayor on that side; the Mayor will be here, but he is essentially the Chair of the Council, is the way I see it, that has to go to every event, which he goes to most of the events already.

Council Chair Rapozo: It would be the Administrative things like signing of the timesheets and all the things you do not see. I never saw it (inaudible) appreciate the work that goes into it, but that is really what that is. I think you just let the chips fall where they fall. If a Councilmember wants to be the Mayor, they run for Mayor. The duties will define how attractive that position is whether or not you want to give up a seat on the Council and run for that position. I think that is fair. I think some people want to be the Mayor, so be it.

Councilmember Yukimura: You know what it does too, as somebody who has been Mayor, it makes the Managing Director's job or the person who manages the County a lot more doable, because right now the Mayor has to manage the County and do all the ceremonial things. It is almost impossible because it is so demanding. You have to be everywhere, but you are responsible for managing the County and doing the day-to-day management, which is a huge job. There will be that separation. The other thing is that, as we have said before, the Mayor now has to work with the entire Council. He or she is on the same side and there is one policy body instead of two (2) policies: one being made by the Mayor and one being made by the Council.

Council Chair Rapozo: The easiest way I can visualize it for me to share with people is right now we have two (2) mini corporations in one big parent corporation. We have two (2) mini corporations running independently. This puts them all under one (1) umbrella, one corporation. It would be as if we had appointed the Mayor today. If this body appointed Bernard and we said, "Hey, this is the direction that we want to go, "and just use that as an analogy and think about some of the things that this Council wants to do, and you would see the difference. That is all the difference. It would not be where we are arguing like yesterday about what road or bridge – no, it would be the consensus of this body that would dictate the activity or the action of the County Manager. That is the big difference. It is a total departure from what we do, but...

Councilmember Kaneshiro: I am just trying to make it clear that when we think of Mayor, it is not the same. Basically, we are saying that we are going to give the people the ability to vote who the Chair is going to be, essentially, who the Chair on this side is going to be.

Council Chair Rapozo: Yes.

Councilmember Kaneshiro: To put it in the simplest terms.

Council Chair Rapozo: Yes. Okay. Because there is a pause in discussion, I am going to take...

Councilmember Yukimura: But there is the veto power.

Council Chair Rapozo: We will get down to that.

Councilmember Yukimura: Okay.

Council Chair Rapozo: I want to get through these basic things.

Councilmember Yukimura: We have agreed that the Mayor will be the ceremonial representative of the County, right?

Council Chair Rapozo: We have agreed right now that the public will elect six (6) Councilmembers and the public will elect one (1) Mayor. As far as duties, we have not gotten there yet. I think we assume that is what the Mayor would be, the ceremonial person and the Chair of the Council, but we have not gotten that far. Mr. Taylor, your arm must be sore by now. Now remember, you do not need to use three (3) minutes – the quicker, the better.

KEN TAYLOR: I appreciate all the work that was put into these documents and it seems to me that the easiest way to approach this would be to first establish a draft organizational chart, and then go back and work on the details of each as you go down the chart. It would make it much simpler, easier to follow...

Council Chair Rapozo: Let me just ask you, Ken, real quick. What is on the top of your organizational chart?

Mr. Taylor: This particular chart is from the City of Santa Barbara.

Council Chair Rapozo: What is on the top?

Mr. Taylor: Electric.

Council Chair Rapozo: Okay, next.

Mr. Taylor: Mayor and Council.

Council Chair Rapozo: How are they selected?

Mr. Taylor: Mayor and Council appoints the...

Council Chair Rapozo: I am not trying to put you on the spot, I am just saying, "Does that chart tell you how they are elected?"

Mr. Taylor: Tells you what?

Council Chair Rapozo: How are they elected or appointed? Does that chart tell you that?

Mr. Taylor: No. What I am saying is you establish a flowchart.

Council Chair Rapozo: Right, but we need to get through this first.

Mr. Taylor: And then get back to the details of each of the...

Council Chair Rapozo: Ken, what I am trying to say is we are trying to get how these blocks on your organizational chart get created. I can toss what Mel Rapozo's idea is, and that is not what I wanted to do today. This workshop was to get everybody's input, but that flowchart is obviously going to be part of this discussion at some point, but we are just trying to get through the selection.

Mr. Taylor: Well, in establishing the flowchart for example, the big problem or question is the Mayor. If the Mayor is elected by the people and sits as the Chair of the Council, that starts the flow. The Mayor and Council, and I will use Council in discussion as we move along, but the Council then advertises and hires the Manager. The Council hires the County Attorney.

Council Chair Rapozo: Okay. We are not there yet, Ken. We are trying to create this organizational chart and we are going to do that as we go along, but we cannot get there until we decide the basic selection, which is what we are working on now. I cannot put together an organizational chart, we have not gotten to Attorney's yet, there are a lot of things and that is what I was trying to explain yesterday. This will be very complicated. At some point an organizational chart will be created, but we are just trying to get through who picks who and how. What I am interested in hearing from you is what is your position on the public electing six (6) and the public electing a Mayor?

Mr. Taylor: The public elects the Mayor.

Council Chair Rapozo: Okay, versus the Councilmembers picking the Mayor?

Mr. Taylor: The Council hires the Manager.

Council Chair Rapozo: Okay, we will get to that, but right now we are just trying to figure out how the seven (7) members are going to be here.

Mr. Taylor: The Council also has other duties of hiring the Attorney and appointing the Boards and Commissions.

Council Chair Rapozo: We will get to that much later.

Mr. Taylor: That is why I say, you build the flowchart...it just seems simpler to me to build a draft flowchart and then discuss the details of how each one goes.

Council Chair Rapozo: Ken, like I told you yesterday on the steps, if it was you and me that were putting this together then we would have no problem, but we have seven (7) members of the Council that we have to get input from, as well as the public. That is why we are here today. I understand your position.

Mr. Taylor: As far as the Mayor is concerned, there has been a number of discussions about under this system losing the veto power, one way to address that is that...the Mayor could have a vote on all issues or he only votes in the case of a tie, which in that case, in essence he has a veto power because he then has the opportunity to vote it up or down.

Council Chair Rapozo: Ken it is going to be very tough today if we go down this road. We have not gotten there yet, is what I am trying to say. I am going to allow the public to come up to participate in the discussion as we have it, but I do not want to go in front of the Council. When we get to the duties of the Mayor and the veto power, you will have an opportunity to come back.

Mr. Taylor: Right.

Council Chair Rapozo: I want to make this very productive and constructive, but I do not want the public to get ahead of the Council because we have to walk before we run. We are still at the plate yet. We did not even swing. We are still trying to get the basic fundamentals in place so that we can move forward because if you look at this list...anyway. I just wanted to hear, "Council elected by the public and Mayor elected by the public." Is there any objection to that? Let me put it that way. Perfect. Thank you.

LARRY ARRUDA: As far as the Mayor being elected by the public, I agree that I think that is important for the people out there to know that they are electing a Mayor. We still have a lot of problems with that, including if the districting goes on the ballot and one other issue that I thought about that I do not think has ever been brought up is currently a Councilmember can serve four (4) two (2) year terms and can then run for and possibly get elected as Mayor and serve another eight (8) years as Mayor. That is sixteen (16) consecutive years and he will be on the Council. Theoretically, if you keep that up, you can have one (1) person that is always a member of the Council perpetuate forever. He could be there until he dies.

Council Chair Rapozo:  
Okay. That is a good point.

Peter did you get that? Did you hear that?

Mr. Arruda: I really see this issue as a combination of a lot of things and I agree that we need the people to know that they are electing a Mayor, but that is going to be in conflict if we go with districting. We have the term limits that conflicts with this. If we were to go with...just like what we do now in voting for Council with all the names on the ballot and the top seven (7) are the Council, if we let them know that the highest vote getter would be the Mayor and the Chair of the Council...just put it up front. That might get more people to vote than if we just go separately; running for Mayor and running for six (6) Councilmembers. Just a thought.

Council Chair Rapozo: I think you bring up a good point and I do see the Charter Review here and maybe this would be a good time to bring someone up from the Charter Review Commission to share with everyone what is on the floor and what will be moving forward. You bring up a good point. As I spoke earlier, that conflict would...if the districting would pass, that would be in conflict with the Council election because the districting accounts for all seven (7) members. The districting proposal would be for all seven (7) seats.

Mr. Arruda: But they are talking about five (5) districts instead of three (3)?

Council Chair Rapozo: No. I am saying that what the Charter Review Commission is proposing is going to involve the election of seven (7) Councilmembers. If this thing passes and you have the election for six (6) Councilmembers and one (1) Mayor, you will have a conflict.

Mr. Arruda: Right.

Council Chair Rapozo: That cannot happen. You bring up a valid point. Mr. Furfaro, I am not sure if anyone here can discuss it.

JAY FURFARO, Boards & Commissions Administrator: I can speak on that.

Council Chair Rapozo: Please, and whomever is in the capacity that they can speak. More importantly, I want to hear what the actions of the Commission are. We need to avoid that potential conflict.

Mr. Furfaro: Good morning. I am just going to give you a summary of what is active that you may be wanting to address the Chairman of the Committee on. Back on October 26<sup>th</sup>, there was a proposal in front of the Charter Review Commission about the Managing Director type of government. That item was moved and received. Part of that dealt with the demand of time, and secondly, the fact of the matter is it had been announced that the Council was working on the same item. On or about the late part of November, the Commission wanted to initiate in their meeting a survey of the public dealing with the possibility of districting. We had a survey produced on SurveyMonkey within the County's website system. It ran from December 3<sup>rd</sup> to December 30<sup>th</sup>. We had four hundred sixty-three (463) responses to the question. The focus on the counts led the Commission to pursue two (2) questions, which are yet to be decided in their February meeting, but it is scheduled

for their February meeting, on number one, no change on the current Council make up or a change to go to five (5) districts and two (2) at-large. No consistent decision was made about terms, but there is an amendment on the table that is still being discussed. That is where we are at on those three (3) particular items: terms, districting, and the actual Managing Director.

Council Chair Rapozo: I had a question real quick about the survey, because as I looked at the survey, was the majority of the responses for “no change?”

Mr. Furfaro: I high percentage was for that. There were four (4) other questions: four (4) districts, three (3) at-large; three (3) districts, four (4) at-large; five (5) and two (2); and no change. I would like refer to the current Chairperson and he could define their discussion.

Council Chair Rapozo: I just wanted some clarity on the survey results because as I saw the results, “No change,” had the highest percentage, but the way the survey was structured, if there is districting, what do you want, and then collectively it was higher. But I think if you put the ballot yes or no, the districting would have failed.

Mr. Furfaro: Your question was, was it the majority? It was not the majority, the vote was split accordingly.

Council Chair Rapozo: Yes, okay.

Mr. Furfaro: The question you posed, the majority...

Council Chair Rapozo: Yes, I thought it was. I thought individually...

ALLAN PARACHINI, Chair, Charter Review Commission: The survey asked four (4) questions. The first of which was, “What districting scheme, if any, do you want? No change; five (5) and two (2); and seven (7) districts within the statistical margins of error tied. No change was about twenty-nine percent (29%); five (5) and two (2) was about twenty-four percent (24%); seven (7) districts was about twenty-three percent (23%). When the Committee drafted the proposal, we gave the Commission at the last meeting, we were mindful of what you folks are doing and concluded that having seven (7) individual districts from which the presiding officer would be chosen is simply not politically viable. How can you have someone who is in the Countywide chair/mayor position be elected to represent only one of seven (7) districts? That does not work. Besides, five (5) districts and two (2) at-large was slightly ahead in the vote count. The survey results indicate that people emphatically reject three (3) districts, four (4) at-large and four (4) districts, three (3) at-large. We also asked if there were to be districts, would those Councilmembers be elected exclusively by the residents of those districts or by at-large electorate of the County as what Maui County does now? The public emphatically embraced a system in which district residents would elect district Councilmembers. We also have looked at a separate proposal that we...the districting committee was charged with providing a report on the districting question. We told the Commission, and this is exactly where things are right now pending, but there are two (2) choices: do nothing or five (5) and two (2). Because our charge did not extend to term length, the committee of three (3) did not proceed on that; however, I as an individual introduced a four (4) year staggered term provision in which three (3) members of the Council would be elected one, two (2) year cycle for the next. The two (2) at-large members would be obviously

chosen Countywide, so each voter would choose for two (2) at-large members and one (1) district member. In a previous matter, we heard from the County Clerk on what would be entailed if we got into out of cycle elections, in other words to your point earlier, if there were to be an election each year, which in addition to being a nightmare, would be very difficult. From the County's perspective, we were told because you only can have elections every second year or the County would have to completely establish its own election cycle which would be expensive.

Council Chair Rapozo: Yes, the cost.

Mr. Parachini: That is where we are. When we considered a proposal by one of our Commissioners to move forward with a Manager-Mayor proposal, it occurred to us that that would be ludicrous for there to be two (2) conflicting or competing proposals on the ballot. That would ensure that neither would pass, I think, and it would do a disservice to the public. If there is to be a proposal, it ought to be one (1) proposal. We received that and do not intend to move forward with it until we know what you folks are going to do. Pending is the proposal by the committee for the Commission to choose between doing nothing and five (5) and two (2). Two, four (4) year terms would be the limit. That is also pending and awaits further review, discussion, and possibly a vote at our February meeting. At our next meeting, we will not be addressing, at least as things stand now, the Manager-Mayor question. We will be addressing the districting question and staggered term length question.

Mr. Furfaro: The challenge we also have is compliance with the one man, one vote, with the districts not being the same districts as the State of Hawai'i through the census allocation. There would have to be an effort on part of the County to actually identify equal districts for the registered voting public.

Mr. Parachini: What people might wish for, which might be that you could rely on the *ahupua'a* districts it does not work. It would have to be legally defensible; one person, one vote. A portion of scheme and the proposal that we were considering provides for creation of a portion of commission and gives it some time, six (6) months with the possibility of coming back to you for additional financial support for an additional six (6) months. That is a complicated process.

Mr. Arruda: If districting is not going to be an issue for the next election, then voting for a Mayor and six (6) Councilmembers and combining that with three (3) of the Councilmembers are elected for a two (2) year term and the other three (3) for a four (4) year term. In two (2) years, the people that got the three (3) year term can run again for a four (4) year term. This would be a one time thing only – this election only. Three (3) for a two year term and three (3) for a four year term, that would start staggering and it would also add the four (4) year terms. If we wanted to, I am stuck on this "highest vote getter," but maybe the three (3) highest vote getters would be the three, four (4) year terms and the next three below would be the two (2) year terms.

Council Chair Rapozo: That is how that one would work.

Mr. Parachini: What we are considering takes account of whether it will be a transitional action and provides that...initially in the first election cycle following enactment of this amendment, three (3) would be elected for two (2) years or two (2) of the five (5) districts and one (1) of the two (2) at-large would



be elected initially for a two (2) year term. The remaining four (4) members would be elected for the initial four (4) year term, then it would clean itself up two (2) years hence when the ones who were elected for two (2) years would then be running for four (4). It would be cycles in which three (3) are up for a one, two (2) year cycle and four (4) up the next.

Councilmember Yukimura: When is your February meeting?

Mr. Parachini: The 21<sup>st</sup>.

Mr. Furfaro: Tentatively.

Mr. Parachini: The last Monday, whatever that date is. We are starting the meeting at 2:00 p.m. because we have a mess of other provisions. I am going to confer with Mr. Furfaro about whether or not we could agenda this item for a time specific within that meeting.

Councilmember Yukimura: How was your survey done? It had four hundred plus (400+) responses.

Mr. Parachini: Four hundred sixty-three (463) responses. It was done on SurveyMonkey, which is an online opinion research tool commonly used in government and private enterprise.

Councilmember Yukimura: How did you choose your sample?

Mr. Parachini: Samples are self-selected. We were hoping to get to a number of two hundred fifty (250) or more. We got nearly double that number of responses. What we had considered was in previous rounds with this question, we held public meetings. Usually three (3) of them attended by a total of about ninety (90) people. Regardless of whether it is self-selected or not, we got a much bigger opinion cross section, plus we did promote participation in the survey in a variety of places ranging from The Garden Island to KKCR (Kaua'i Community Radio). Without knowing who they are, I believe there is a strong correlation between what the community as a whole believes and what the survey results say.

Councilmember Yukimura: In doing the survey, did you have a pro and con in any effort to educate people about the pros and cons about either?

Mr. Parachini: No. We asked them if you want districting, which scheme do you want. We asked them if they are registered voters or eligible to be register because when we designed the survey, all three (3) of us were concerned that the results would be swamped by off-island residents. That turned out not to be a factor. I think we only got fifteen (15) participants who were either registered or eligible to register.

Council Chair Rapozo: That is the only problem with the SurveyMonkey because it is not scientific, number one, so people can vote more than once.

Mr. Parachini: No, they cannot.

Council Chair Rapozo: Yes, they can. From different terminals, they can. Believe me, I used that for my campaign and that damn thing was so wrong, it was disgusting. I thought I was going to win and I lost. If you go on KKCR, you are going to get that group, that in itself has their...I am just saying that we got to...it is a great tool because you get a good snapshot, but it is not scientific. You can be voting from anywhere. Unless there was an identifier like a social security number.

Mr. Furfaro: We had an identifier to determine what computer terminal which it was coming from.

Council Chair Rapozo: Right, but again...

Mr. Furfaro: It was more accurate in many ways then what you say is capable in doing.

Councilmember Yukimura: My concern often with the surveys is that people do not really know the issues very well. People think that districting will give them more voting power than the present system when actually they have power over seven (7) Councilmembers now and when you go by district, you only really have power over one, maybe three (3) in the five (5), two (2). Gosh, I have seen the districting system...because the legislature is in the districting system and I have seen our legislature...this is in the past, not the present, but they have legislators from other districts do their dirty work. They will introduce certain things and nobody knows that it is them or the perfect example is how the rail project was going to Salt Lake rather than to the airport because one Councilmember wanted it for his district. You are going to do major land use planning and transit planning based on...

Council Chair Rapozo: Councilmember Yukimura, we are not going into the debate of districting because we are not going to deal with that. February 21<sup>st</sup>, there is a potential action at the Commission that either do nothing or five (5), two (2).

Mr. Parachini: Correct, and either go to four (4) year staggered terms or not.

Council Chair Rapozo: Okay. I guess for our discussion today, for us to be the potential of a five (5), two (2) being passed, if we went with a six (6) Council and one (1) Mayor, there would be a conflict.

Mr. Parachini: It certainly would. When I saw quotes attributed to you this morning in The Garden Island, which you have reiterated this morning, you are thinking this may involve an entirely new Charter. My reaction was that the way I would respond to that would be six (6) words, "Mauna Kea, what do we do now?" Because I have no idea what the ramifications of having an entirely new Charter and amendments to the existing Charter on the same ballot – that is a nightmare. I would just yield to County Attorney advice on that.

Councilmember Yukimura: One way to handle it is if we decide to move ahead, we could ask the Charter Review Commission to hold back and let this question go to the Charter...I mean go to the public, the question of an entirely new Charter and then if that fails in the following election, go for some of the sectional changes.

Mr. Parachini: The unfortunate reality is that our Commission under current law sunsets on December 31<sup>st</sup> of this year. We have voted to put an amendment on the ballot for November to make the Commission permanent to anticipate...in particular, if you made a change as substantial as Mayor-Manager that it is likely that aspects of the Charter would need to be addressed and cleaned up in the future in which case if there were no Charter Review Commission in existence, it would make that process even more difficult.

Councilmember Yukimura: And the way to handle that one would be to say in the provision, the Charter Amendment that you are proposing making the Charter Review Commission permanent that if the new Charter passes that it would be incorporated into the new Charter.

Mr. Parachini: You could do that. Even without a result of your discussion today, it has been interesting framing these two (2) proposed amendments because they had to be framed in such a way to anticipate anything you can do. The staggered term amendment, which really ought to be one paragraph, is a full page because it anticipates a couple of different eventualities that would be driven by whatever it is you decide.

Councilmember Yukimura: Where there would be a really ostensible conflict, I do not think we can have two (2) on the ballot. Even if you have all this convoluted wording about...no, you cannot. But making the Charter Review Commission permanent, that will not really have a conflict with a proposed charter... a completely new charter.

Mr. Parachini: I cannot speak for the Commission.

Councilmember Yukimura: Yes, I understand, but we are just putting out...I appreciate your presence, gentlemen, because I think we have to have communication between the two (2) entities. The more we can coordinate, the better for the people.

Councilmember Chock: When is the Charter Review Commission going to be confirming proposed amendments?

Mr. Parachini: On these, we will discuss and possibly vote on them on February 21<sup>st</sup>.

Mr. Furfaro: The meeting is tentatively scheduled for the 22<sup>nd</sup>.

Mr. Parachini: Then we would vote again, a confirming vote, in March. For among other reasons, we lose two (2) current Commissioners after the end of March. If we are going to make viable decisions on these proposals that have been pending with us, plus the timing issues related to getting things on the ballot, our hope is to conclude our process by the end of the March meeting.

Councilmember Chock: Thank you.

Mr. Furfaro: The Clerk's Office has a critical path for the Commission. It identifies the February and March meeting. The Charter is out of whack with the terms that are given to Commissioners versus the ten (10) year

period. We have two (2) that will mature and have served both terms, therefore, we will have to appoint two (2) new Commissioners. Although we can only appoint them for three (3) years, they will only be able to serve for ten (10) months and then they all terminate. I would encourage you to visit with the County Clerk and you will see the critical path for getting reviews into the County Attorney, having the legal reviews, getting the educational piece put together after the legal review, then going to print with some narrative that Councilmember Yukimura is referencing on an educational piece. It is a pretty tight schedule.

Mr. Parachini: If I could for a moment answer the question Councilmember Yukimura posed, which was did we engage in any public education activity about the ramifications of the various options. The answer is deliberately we did not because to do that would have required that the Commission reach a consensus on what we thought and the purpose of the survey was simply to find out if the public wants a change, and if so, what does that change require.

Councilmember Yukimura: I want to suggest that in making its decision, the Charter Review Commission can say that we want these issues to go to the ballot if a new Charter is not proposed for the ballot. But if it is, then it be not put on the ballot so that the people can actually decide first on the full charter change and then later on we can make some amendments to Council terms, et cetera.

Mr. Parachini: Quite honestly, I am not sure what the answer to your question is. It would be something that I would ask the County Attorney assigned to us to reflect and brief us on. I just do not know...

Councilmember Yukimura: I am not asking you to say "yes" or "no" to it today. I am saying it is a suggestion to make to your group because it is not about a legal decision. It is about a discretionary vote on the part of the Commission that would say knowing that there will be this conflict and knowing that the bigger question is about a county manager system, we would defer to that rather than have both go on the ballot. The Attorney's will tell you that it will not work for both to go on the ballot. How you coordinate it is a thing that we can decide among ourselves as decision-makers in two (2) different bodies.

Mr. Parachini: My hope would be that the Council would make this as a request of us to consider that. Our course of action, I am sure, would be to ask Mr. Dureza, the Attorney assigned to us, to give us some analysis of it. Not that he would (inaudible) with the results, but we would want to know. We are seven (7) volunteer laymen. The last thing we want to do is something that puts the County in a bad position for governmental consistency moving forward.

Councilmember Yukimura: Mauna Kea, I hope you are listening to this.

MAUNA KEA TRASK, County Attorney: Yes, intently.

Councilmember Yukimura: Okay.

Councilmember Kualii'i: When you were talking about the survey, I got the numbers of the five (5), two (2) with twenty-four percent (24%); no change twenty-nine percent (29%), but I did not get what was the other two: four (4), three (3); and three (3), four (4).

Mr. Parachini: Off the top of my head, I do not remember those numbers.

Councilmember Kualii: Where can we get the results?

Mr. Parachini: It is a public document and two (2) of you had requested copies of it and received them. I would be happy to provide them, but I believe they are online.

Councilmember Kualii: I see the survey online, but I do not see the results, but I am just looking at The Garden Island.

Mr. Parachini: If it is not electronically available...

Councilmember Kualii: The survey was open for a month?

Mr. Parachini: Just shy of a month.

Councilmember Kualii: When was that?

Mr. Parachini: December 4<sup>th</sup> through December 30<sup>th</sup>.

Councilmember Kualii: I just went on and just did the survey and it took my answer.

Mr. Parachini: It does not count. We worked with the County's Information Technology (IT) Department. There is a very sharp person there who is very familiar with SurveyMonkey and we have placed ourselves in her hands. (inaudible) could not be considered for the results posted later than the December 30<sup>th</sup> date.

Councilmember Kualii: I want to see the results too because in question number one, there are five (5) answers. Seven (7) members each representing a district and then the three (3), four (4); four (4), three (3); five (5), two (2); and then leave it as-is with seven (7) members at-large.

Mr. Parachini: SurveyMonkey has the capability to commute margin of error and given the sample size, the population of the County, and the number of registered voters in the County, SurveyMonkey says, plus or minus four percent (4%) which means in reality seven (7), five (5), and two (2), and no change are (inaudible), statistically.

Councilmember Kualii: In the end, the survey does not help the Commission. You just have to decide because it is all the same.

Mr. Parachini: It certainly helped the Committee frame what we were going to propose to the Commission, which is to watch us do nothing or five (5), two (2). We discuss at some length in the committee the circumstances that would be created should you move forward with a Council-Manager or a Mayor-Manager system, could that coexist with seven (7) individual districts and our answer as a committee was, "No, it cannot," but the commission has not finally deliberated on this at this point.

Council Chair Rapozo: Any other questions? If not, thank you. That does cause a little hiccup.

Councilmember Hooser: I guess it is ultimately a question for the County Attorney. Does changing the full Charter and creating a new charter have language that says, "Other charter amendment provisions voted on at the same time that are not in conflict shall be incorporated into the master charter change." Something like that might be one path. So there are districting or others, as long as there was not in conflict with the underlying one, there would have to be language, I would think, but that is a longer term inquiry for the County Attorney.

Council Chair Rapozo: Okay. We are not going to deal with the districting, terms, and basically all it is, is selection of the Mayor will be by the electorate, right?

Councilmember Kualii: I do not know that we are not going to deal with it. If we package it all together, and we have what we think is the best practice or the way to put it all together then we just have to work with the Commission as far as what they end up with, what we end up with, where is the conflict, and where we can work together. It sounds to me like they are waiting for us anyway. If we have something that is different from them, I hope that they are deferring to us. They have not confirmed to put something on the ballot yet and obviously neither have we.

Council Chair Rapozo: Did you want to address the terms?

Councilmember Kualii: When you talked about the seven (7) positions, six (6) are Councilmembers elected and one is the Mayor elected, and the terms all being four (4) year terms allowing for the staggering, that means I see it as six (6), four (4) year staggered terms for Councilmembers and one, four (4) year term for the Mayor, who serves as Chair. Simple as that – what you said.

Councilmember Kaneshiro: As I was thinking about it and of course there are a lot of conversation back and forth on it, but we could decide to leave it as two (2) and then eventually if the entire thing passes, if they want to change it to four (4). I am just thinking simplest and practical. People may not like the four (4) year term staggered.

Councilmember Kualii: We have to decide if we want to follow ICMA's best practices and if we are willing to say, "We want to move away from the old Mayor system and into the new Council-Manager system," and in doing that we want to ensure success by having best practices and that is why we are packaging it altogether. The voters either vote for it all, to give it a chance, or vote it down and leave things as-is.

Councilmember Yukimura: I agree with Councilmember Kualii. I think even Councilmember Kaneshiro said that for a County-Manager form of government, four (4) year Councilmember term would work better. It is best practice. You do not have this constant change of the Council. We choose a Manager and for four (4) years we work together, at least. This idea of Councilmembers running every other year makes the Council very short-term in their thinking. I think that is part of the reason why four (4) years is the best practice. I think it is just so logical if we are going to go to this County-Manager form of government to go with a four (4) year term for Council staggered.

Council Chair Rapozo: I tend to agree with that. I am assuming that you would do it the first election, the top three (3) vote getters would get the four (4) year term and the following election, the remaining three (3) would get the four (4) year term and the Mayor would get the four (4) year term from the beginning. Is that what I am hearing? No objection to that? Okay. That will be put into the resolution as far as the term. We have the selection of the Manager. We have the selection of the Council. We have the selection of the Mayor. We have the terms of the Council and we have the terms of the Mayor. I think it is a good time to take a short break.

There being no objections, the Council recessed at 10:14 a.m.

The meeting was called back to order at 10:29 a.m., and proceeded as follows:

Council Chair Rapozo: I just want to recap the selection of the Manager; the selection of the Council; the selection of the Mayor; the terms of the Council; the terms of the Mayor have all been set. The duties of the Mayor.

Councilmember Hooser: I hate to throw a wrench in it.

Council Chair Rapozo: Please do.

Councilmember Hooser: The veto aspect has been discussed in the past, which is a key function of the Mayor now. If the Mayor was one (1) of seven (7) and the Chair of the Council, then it begs the question of what happens. There is no veto and is that a good thing or a bad thing. It brings me back to maybe it is a seven (7), one (1), the Mayor is the eighth (8<sup>th</sup>), and then there are seven (7) Councilmembers. This is just a thought. I know we had this discussion and I hate to reopen it, but the veto question is an important question.

Councilmember Yukimura: What is the best practice?

Councilmember Chock: Not to have the veto power.

Councilmember Yukimura: That makes sense to me.

Council Chair Rapozo: Yes, to me the veto power is in the majority.

Councilmember Yukimura: That is right.

Council Chair Rapozo: I mean it is an inherent veto or a veto – you cannot get the votes, it does not move and it is a big departure, but it is a new system. I would suggest removing the veto power altogether.

Councilmember Yukimura: I think there needs to be a certain check on the majority, which I believe is a supermajority requirement. For example, in one of the County's in Hawai'i, in order to pass the rules of the Council, you need a supermajority and that is a protection against a regular majority. That is kind of a check on the Council body because that is the body now you are going to have to check.

Council Chair Rapozo: And you have to remember that the Mayor is not going to be selected by the Council, so right now any given time you can remove the Chair.

Councilmember Yukimura: But if you change the Chair, you do it by the rules of the Council. The purpose of our rules is so that minority has a voice, but the majority rules and then you define what the majority is. On really important votes you require supermajority rather than just simple majority – that is a protection.

Council Chair Rapozo: For the sake of discussion as far as the veto power under the Mayor, that would be removed?

Councilmember Chock: If I could just expand on the best practice. That was applicable to the seven (7) member more or less, right, but there are instances more when there is that eighth (8<sup>th</sup>) and the Mayor is a separate entity, so to speak on the Council and may or may not vote on the most and just has just the veto power. It is a structural change, I think, that we are talking about.

Council Chair Rapozo: Any thoughts? I mean is removal of the veto power a good thing? I think so.

Councilmember Hooser: Like all these constitutional things – it is a balancing power, yes? And so if I can ask the question that we agreed four (4) or five (5) votes for the Manager?

Council Chair Rapozo: Five (5).

Councilmember Hooser: So, that is good. Especially if we are taking away the veto power.

Council Chair Rapozo: Right.

Councilmember Hooser: So a four (4) member majority does not run the show. Okay.

Councilmember Kualii: The basics is that the Mayor is the Chair of the Council, but he or she is subject to the rules of the Council and to the majority of the Council or to the supermajority of the Council?

Councilmember Yukimura: Depending on the issue.

Councilmember Kualii: So we would have to spell out which issues? Because we obviously spelt out the issue that the hiring supervision and firing of the county manager is by supermajority of the Council.

Council Chair Rapozo: Correct.

Councilmember Kualii: And Councilmember Yukimura is recommending that passing the rules of the Council is a supermajority, but what other decisions are so important that has to be supermajority?

Council Chair Rapozo: The Mayor would be part of the selection of the county manager.

Councilmember Kualii: Right.



Council Chair Rapozo: So, it is not just six (6), right. You are going to have seven (7) members...

Councilmember Kualii: Five (5) out of the seven (7) then, including the Mayor.

Council Chair Rapozo: Yes.

Councilmember Kualii: He is just a "Councilmember" really.

Council Chair Rapozo: Right, and that is a point I am trying to make. The Mayor is going to be just like a Councilmember that is going to chair the meetings and represent the County, which we all do anyway – everyone does that as far as ceremonial.

Councilmember Yukimura: So, these systems are not foolproof and you could get into a situation where even a supermajority of the Council is not doing the right thing. The reason there was this Mayor's veto was that you saw it as two (2) separate bodies and in the strong Mayor form of government is seen as having greater power because he or she has to run the County. I think it is ethics rules and transparency that keep the majority of the Council, whether it is four (4) or five (5), in check. Everybody is talking about Flint, Michigan, and what happened in the decision-making process there. That was a County-Manager form of government, right, so...

Councilmember Kualii: Not quite.

Councilmember Yukimura: Really?

Councilmember Kualii: The Manager was just put in place by the Governor. No elected body put that person in.

Councilmember Yukimura: Oh, that is true.

Councilmember Kualii: One (1) decided.

Councilmember Yukimura: That is true. It was not exactly. But we are just thinking about all the checks and balances to prevent or really minimize wrong actions that do not benefit the good of the community. Yet, you do not want to make checks so strong that it stalemates any action and good actions as well – it is a constant balancing.

Councilmember Chock: At least from my perspective this is where the best practices came into play more from the ICMA on things like the process where we are talking about the selection of the Manager. It is very detailed in terms of what to do and what not to do that I think we need to look at adopting. That would be my strong request that we do look at those specific processes as implementation in addition to the structural aspects that we are talking about.

Council Chair Rapozo: Any other discussion? Mr. Taylor.

KEN TAYLOR: In this system, many communities do not worry about veto. The board makes the decision. In communities where they have

been concerned with having a veto, as I said earlier, in the Charter it is spelled out that the Mayor does not vote on every item, only in the case of a tie, which in essence gives him a veto power because he can vote it up or down. Now, if he votes it down, in essence, that is a veto. If then it is brought back to the Council and the board majority votes to override that no vote, it is done. It is a simple process if veto issue is needed or felt that is needed in the process. I have talked to a number of people around the community and to some people it is an issue and it might not be a bad way to go. Otherwise the Mayor sits as the Chair of the Commission and he votes on every issue and you discuss the process and move forward. Right now because you have the separation, in essence the two (2) governments; that one and this one, he has the authority, but if he is sitting here and discussing part of the discussion of going to a vote on an issue, what is the point of having the veto power? I think it is a simple thing to resolve – go one way or the other, and the question comes down to, “How important is this issue, veto power, to the community and the voters in general?” If you feel that the voters are very strong in needing a veto power, you have a simple process of moving forward with that activity.

Council Chair Rapozo: Thank you.

Mr. Taylor: There are a lot issues about the Mayor, but I heard a lot of people say, “Well he is just going to be a figurehead,” but I do not believe that he is just a figurehead. He is a lot more. He is the spokesperson for the County. Normally, you have to look at the situation of going back to a vote. What is the platform that a Mayor runs on? Does he just want to be the Mayor? No.

Council Chair Rapozo: We are just focusing on the veto right now.

Mr. Taylor: I think it is just a simple one way or another.

Council Chair Rapozo: Ken, you think everything is simple.

Mr. Taylor: Well, you can make it a problem.

Council Chair Rapozo: Like I said, if you and me were doing it, it would be simple.

ROBERT GIRALD: As I listen to the issue of eliminating the veto, my concern is do we in essence nullify the legislative and administrative branch of government? I think that is a basic cornerstone and fundamental structure in government – you have a legislative and administrative. One of the main functions of the administrative is the veto power. Now, eliminating that with all different ideas why it is not necessary, I think we really need to look at what we are doing because we are just changing too many things with that kind of thought.

Councilmember Chock: I agree. I think it is a big concern as well. That is why I brought up earlier that the Council roles and duties need to be very specific as well because we should not be administrating. We are policy. That separation resides amongst those divisions. Right now, what I am hearing is that there are two (2) policy making bodies: the Mayor and the Council, and that needs to be a little bit more cohesive. Separate to that is the administrative role which we often do as well, sitting around the table, that needs to be further separated in order for people to actually get what they need to get done. Again, I think the role and duties of the

Council needs to be specific and clear to drive the boundaries and not overstep and vice versa. That is how you start to address some of those concerns.

Mr. Girald: I look at it as trying to split hairs because you have basic fundamental structures in government and what you are doing here is you are trying to reinvent it. I think these are cornerstone fundamentals that have been in place and tried and used for a long time. I think that we need to be very careful about all of the subsequent conditions that are going to arise out of this. I really think that having a check and balance in government is important and if you have the same players doing the check and balance, then I think that is what they call "Shibai" as far as I am concerned.

Council Chair Rapozo: I think that is a concern for many of the citizens over here. They are concerned that you are going to transfer the power to really one (1) body – that is always a concern. Many jurisdictions have gone this route and it works and in some places do not work. Same with the Mayor system, some places it works and some places it does not. We are just trying to decipher all the information and figure out what is best. At the end of the day we will, with the public's help.

Mr. Girald: I am saying this not condemning you folks. I know you had a test to and that is what you are doing, but just from the concept from where I see it.

Council Chair Rapozo: It is a major departure from what we do and again, I think about that veto power, it is a big component of the check and balance. We may have to consider keeping that somehow.

Councilmember Yukimura: In the Council-Manager form of government, there is still a division between the administrative and legislative, policy, and the division is...in what I just said. The Council will do policy and they cannot do administrative. The question is how and who gets to enforce that division. In the present Charter today, our County Charter, there is a provision that says that, "Councilmembers shall not interfere with administrative provisions on (inaudible) of being removed." A provision like that is probably very important. Then the question is, even for the one existing, but certainly for the one we are going to put in, who gets to enforce it? So does the county manager have some ways to make sure that line is...if it is crossed, that people are told about it and it is remedied. I do not know what the best practice provisions or procedures are, but that is part of Mr. Girald's concern, which is the breach of the line between administrative and policymaking. We should somewhere down our list take that up.

Council Chair Rapozo: We are at that point because we are...

Councilmember Yukimura: Okay, then what is the provision?

Council Chair Rapozo: The veto power, I think when you are looking at the check and the balance, that is really the only...like you said Councilmember Yukimura, who has that authority?

Councilmember Yukimura: Right, the veto power with the Mayor who is on this side of the separation of powers does not make sense.

Council Chair Rapozo: Correct.

Councilmember Chock: According to what I read, it is the Manager. They are given power when there is an overstepping and it varies to what you are saying, that is currently in the Charter, in addition to fines and in many instances prior to the removal. That is what I read.

Councilmember Yukimura: Of Councilmembers?

Councilmember Chock: Yes, of Councilmembers.

Councilmember Yukimura: So what I am saying is that the enforcement of this separation of powers will not be by veto anymore; it will be by some other mechanisms and Councilmember Chock has just described a couple of them like fines and removal from office. But you know it is a question of who brings the charge, who enforces it, how is it enforced? Those are some of the practicalities.

Councilmember Hooser: We are talking about balancing the power and so if there is a line or bar on the graph in terms of where the power is, having a veto provision balances the power more away from the Council, if you would. Because the way it stands now is it would be a four (4) person majority to set policy, and not five (5), it would be four (4). There is no mechanism to say, "You need to take a second look at it because there is no veto as it stands right now." There have been instances in the not too distant past when one could argue that the four (4) person majority was too strong or whatever and the Mayor could have vetoed it. The only way to have a veto in my opinion would be to have an eighth (8<sup>th</sup>) person. Have a Mayor who is given the communication duties, ceremonial duties, and veto power, and the seven (7) Councilmembers still do what the seven (7) Councilmembers would do now. That would still allow the veto to override a four (4) person majority and then the Council would have the option of overriding the veto with five (5). Otherwise, you may very well get a four (4) person majority driving the policy with no checks on it.

Council Chair Rapozo: So, the Mayor would have no voting...

Councilmember Kualii: Would not be on the Council.

Council Chair Rapozo: He would not be on the Council, he would be a separate body, he would basically be the administrator.

Councilmember Hooser: He would be...you call it "ceremonial."

Council Chair Rapozo: As Mr. Girald is saying, that person would be the administrator or executive in the separation of powers.

Councilmember Hooser: He would not administrative duties and the managing would do that.

Council Chair Rapozo: Right, but to keep that separation where you would have that check and balance. Obviously the County-Manager would be...

Councilmember Hooser: Right, so that is one of the models that is in existence right now, so that would shift that power away from the four (4) member...

Council Chair Rapozo: Let us talk about that because Councilmember Kualii talked about that earlier.

Councilmember Kualii: So that Mayor would be elected by the people, but in essence he would still be part of the legislative side, just separate from the Council. The only legislative and policy power he would have is the veto. The people would have to understand that that is his or her responsibility and they would elect him or her for that purpose. That would have to involve a totally separate position – an eighth (8<sup>th</sup>) position, if you will, but he would not be sitting over there and managing. The management and operations would still be done by the County-Manager.

Councilmember Yukimura: So the Mayor would be elected for his veto power, I mean, he...

Councilmember Kualii: And ceremonial and everything else.

Councilmember Yukimura: Yes, I know, but in terms of policymaking and running of the County, he is not going to be with the Administration and he is not going to be with Council policymaking; he is just going to be there as a check to see that the Council does not make a bad decision and be ceremonial? He is not going to be involved in actually making policy, sitting around the table, and become familiar with the issues, have a stake in the administration and management, but he is going to be the one who vetoes? It seems a little weird.

Councilmember Kualii: Be an advocate for the community, be part of this, but not one of the seven (7). That is just an option.

Council Chair Rapozo: Let us not get angry.

Councilmember Yukimura: I am not angry; I am just trying to figure it out.

Councilmember Kualii: I am not opposed to the veto going away because I think ultimately the Mayor sits here as the Chair and all decisions are made here and there is not another person sitting somewhere to veto. Let us look back how many times has a veto been used? How many times has it sustained or overridden? I do not think very much. If this body makes such a bad decision, then what is the mechanism for the voters? Ultimately, the voters have the final veto on everything. Could there be a way that the voters would be able to undo a bad bill?

Council Chair Rapozo: The impeachment of...

Councilmember Kualii: No, other than the individual...we know there is that...

Councilmember Yukimura: We have referendum.

Council Chair Rapozo: With a four (4) year term, the member can leave. Your Honor, I am glad you could make it today.

ALFRED LAURETA: As far as the veto power is concerned, Councilmembers, the Mayor has the power to veto and the Council can override the

veto, period. That ends the whole thing as far as the veto is concerned. Then you kick out the Mayor when the next election comes or the Council gets kicked out at the same time. I do not have anything much more to add because of the many testimonies that have been presented to you. I have been here before, and the same thing I will tell you one more time, as far as I am concerned the Charter that we have now is practically cowers everything that you as Councilmembers have the power to exercise in your office. You can exercise the power that you have under the Charter. The same thing applies to the Mayor. If you can do that and if you are not happy with what the Charter provides for you, then by golly it is up to you to change it so that it will make your job easier and perform the responsibilities that you have been elected for. You are supposed to provide the services and whatever you have been elected for by the people in this County. They cannot go and tell you to change the Constitution of the United States, and you cannot change the Charter unless the Charter is amended or has to be approved by the people and the Council too. In other words, what I am saying is the Charter that we now have provides you with all the power and authority that you have been given, and it is your responsibility to exercise them as the best way you can exercise them, but do it according to what the Charter says you can do or cannot do. If you, seven (7) members here, expect to be elected for this next election, I hope that you will be reelected because you believe that the Charter gives you the power to do the things that you are supposed to do and if you do not do it, then by golly let us reelect new Councilmembers. Also, elect a Mayor that is going to work with you and do the same things as he has the power to do under his authority. That is all I can say. Listening to all of the testimony that has been presented and has been in the newspapers – I have written letters to the Editor and I have read testimonies made in the newspaper too, and I am trying to find out from those people what are the problems that they would like to have straightened out as far as the County is concerned under the Charter. I read their letters and they tell us what their problems are, but they never spell it out and say, “This is the problem and this is what we should do. So and so should be kicked out as an employee of the department or whatever.” That is the things that they wanted to talk about, but you ask them, “Put it down in paper and tell us what it is. What are the problems that you have?” No, they will not tell you, and you read the papers and they will not tell you what it is that they explicitly come up with problems that they are concerned with. I see many things that come out in the paper and they are differences and points of view and every time people write a letter because they disagree with you or you disagree with them or the voters who voted for you disagree with the people who write and disagree with people who do not write, and they also write to you as you are their presentative, and they expect you to do what you are supposed to do. I would like to hear what it is that they would like you to be able to do. What more tools do you need in order to provide the services that you want to provide to the people that come to you. That is what I would like to hear. I would like them to say, “So and so Councilmember, this is what I want you to do.” If you do not have the votes to do it, that is the way it is going to be. You are going to be reelected for how you vote or how you do not vote. If you vote the right way all the time, you stay in office forever. Thank you.

Council Chair Rapozo:

Thank you, Judge.

BRUCE HART: I cannot hold back. There is another way to accomplish and overcome the frustration that I believe has led to this discussion. What is really happening is that we have a form of government right now that is workable if there was not this in front of you. I have gotten up before the Council before and have said and I have no aspirations to sit in one of those chairs, but I

would be saying the same thing if I was sitting in one of those chairs and that is that I would like to see...and I know there has been a reaching out between both administrations to work together. In regards to the veto power as an example, if you go back in history the veto power was originally...in fact if you go back to Jefferson, the veto power was a pretty technical thing. It was really another check by the executive branch on the constitutionality of something that was being passed by Congress. It was Andrew Jackson who made it a policy procedure, who began to use it as something beyond just the technical. The whole thing is about working together. I want to tell you that I have said that this Council has tremendous power if you can work together. If the Mayor, the Administrative office over there, if they veto something that you folks want to get passed, you have the supermajority. If you can get five (5) people on the Council to agree, you can override that veto. There is another thing to think about and that is if this Council can agree, you can in fact and I do not know how people will take what I put next, but you can in fact elect the next Mayor. These seven (7) members and the votes the you garner together, all of the votes that people vote for you, it is almost assured that you would be able to put the next Mayor into office and then you would have somebody who would not be a "yes" man, but somebody you knew and respected and would work with the Council. Thank you.

Council Chair Rapozo:

Thank you.

Councilmember Yukimura: The system of governance and how it is framed can either increase or decrease the probability in fighting or working together. For example, creating districts will cause more fighting because you are causing different interests. You are creating different interest rather than having the island as your interests and accountability, you are creating all these districts that are going to start pulling for resources and for themselves and you are going to have Councilmembers who are thinking only about one district and not about the whole island. You are going to cause a lot of infighting.

GLENN MICKENS: I have to agree with you, Councilmember Yukimura, the people voted it down two (2) or three (3) times or maybe it has gotten a little bit closer now, but districting, I cannot see how...if you try to put this thing back on the ballot with the Manager style of government, I think people are just going to blow over. I do not think it is going to go. In relation to what my friend, Judge Laureta said, he keeps saying that the people do not tell what the problems are. I completely disagree with that. If you read closely, you will find out that our traffic, roads, low-income housing, and solid waste program problems have been going on and on and on and it is not getting solved. There is something definitely wrong with the problem as we know it. It has to change. The Manger style of government may not be the magic bullet that will cure it all, but it can certainly improve it. At first, I want to thank all you Councilmembers for being here. I thank you Committee Members for being a part of this and doing your research and Council Chair for doing this. The Manager style system as you found out Councilmembers Kaneshiro, Chock, and Kuali'i, that fifty percent (50%) of the municipalities around the country are using this style of government. Maybe it does not work for everybody. Nothing is perfect, but it is certainly going to improve this system that we have at this stage of the game. It has got to be worth trying because if it has worked elsewhere, you do not have to reinvent the wheel or find a new blueprint because it is already there.

Councilmember Chock:  
about the whole veto question.

Mr. Mickens can you tell us what you think

Mr. Mickens: The veto thing, I think it is a great elimination thing at this stage of the game. If the Mayor, is now as proposed, one of the options – he is going to be sitting here on the Council. There is going to be no need of the veto. He is going to be one (1) of the seven (7) votes on this Council. So, he does have power and again, you are doing away with the veto. As Councilmember Kuali'i said I have not seen a lot of the veto power used anyway over the years, but say you take it away, I think having it taken away is outstanding. I just think it is eliminating another layer of trouble by having it gone. For the people that keeps on saying that we want to find out if there is going to be two (2) styles of government, one here and one over there, it has not worked. If the Mayor is sitting here and you as the body direct the man who is qualified and that is going to be the big question, you are going to have to...as Ken was talking about, have a headhunter go out and eliminate down to three (3) people. You folks as a group again are going to be able to pick the Manager. You are not going to pick someone who is a flunky or does not qualify. You have the right to go ahead and set the qualifications for them however stringent you want, but it is your call. That Manager is not going to come along and just be the person that runs things. He is at your command. You and the Mayor sitting here are going to tell him what you want done. With his expertise and experience, he is going to go out and do it the most cost effective way possible.

Councilmember Chock: Okay. Thank you. In terms of the veto question, I just want to check in with everyone individually. Is there more information that is needed to continue this discussion or are we all clear about where we would like to go?

Councilmember Yukimura: The next item on our list is Constraints on Council in dealing with Administration, which is part of the check that people have been talking about. I have been looking in this model city charter for those constraints and I do not see them, but that is the information that I would like to know. I do not think that the veto is going to be the proper form of check in a County-Manager system. I also do not know, but want to know, what those newer forms of constraint and checks are going to be. That is the information that I need.

Mr. Morimoto: There is a similar provision in the model charter.

Councilmember Yukimura: Can you find it for me?

Councilmember Chock: It is embedded in some of the outlined documents outside of the model charter, but I would have to look at the specific documents to find some of what you are talking about. I just wanted to bring up also if we could discuss it further, we talked about the duties from that chair position, which we already know is a lot to take on, but now we are talking about ceremonial duties, which is also an important role. Is that a full-time job?

Councilmember Yukimura: It is.

Councilmember Chock: I think that we have to take that into consideration in terms of how you are structuring this position as well.

Councilmember Yukimura: Pay will be something to think about. I think in the Mayor's Office right now, the ceremonial responsibility alone is full-time. It is



day and night, do you know what I mean, and then you are going to have administrative jobs as the Chair of the Council. To me, it is definitely a full-time job, which means full-time compensation. You cannot ask somebody to perform those jobs on halftime compensation.

Councilmember Chock: Just in reference to the veto, we are talking about options of the eighth (8<sup>th</sup>) member which the ceremonial duties came up once already and then there are other options for that as we have seen rotation of those duties as well. I just wanted to make sure that we threw those options out there for discussion as it is related to this.

Councilmember Yukimura: I guess in terms of more information, can somebody flush out the eighth (8<sup>th</sup>) Councilmember framework, then we will have a better understanding of how it would work and what the roles would be. That would be interesting to consider.

Councilmember Kualii'i: I would not confuse it as an eighth (8<sup>th</sup>) Councilmember. You no longer have a...it is a separate position. There are seven (7) Councilmembers and there is this other position, which is a new Mayor, not the old Mayor, and this new Mayor is primarily all those things – ceremonial, veto power, and maybe head of boards and commissions, and things with community involvement.

Councilmember Yukimura: The thing that would worry me is that the Mayor would have a very significant veto power without really being involved with the real policymaking process.

Councilmember Kualii'i: But that would be his or her choice. If they are sitting in an office here, they could easily come and be informed and they might have a staff person or deputy that helps them. They would have to stay up on the legislative issues. If they do a bad job, then they will not get re-elected.

Councilmember Yukimura: Yes, but being part of the conversation is part of learning and understanding what the best position is for the County. You could make the eighth (8<sup>th</sup>), this new conceived mayor, an ex-officio member of the Council so they have discussion, but no vote. Is there such a format and some actual experience with this format out there in the world of county governance in the United States otherwise we are creating it from scratch.

Councilmember Chock: I know it does exist; however, I do not know a whole lot about the details. That is something I would like to look further in to. I think I am hearing there is enough interest from a few members to want to continue to look at that option, is that correct?

Councilmember Kualii'i: Procedurally, I do not know how many more workshops and what have you...the flipside of that is the option that five (5) of us can agree on. If two (2) of us are interested in pursuing another option, there is no indication that is worth doing if we are not going to get to five (5). If it is nice to have, but I am okay with this. If everyone was okay with the idea of the Council-Manager form of government that has seven (7) new Councilmembers and the Chair is the Mayor, and that there is not a veto, if five (5) of us agree that we are okay with that veto going away from the old Mayor system, because the voters themselves have that veto. Even with the referendum process that has not been used since Nukoli'i as

Councilmember Yukimura and I were talking about. If this body, the new Council body, passed a bad law, then the people could take immediate action and rise up, not just to recall all the ones that voted on that bad law, but also to just undo the bad law. In essence, that is the veto power by the people, not just at election. I do not know how hard it is to do.

Councilmember Yukimura: It is very hard.

Councilmember Kualii: Part of the consideration is to make it easier for the voters to undo a law that the Council passes because they do not have the old-fashioned Mayor to veto it, on their behalf, that they voted for.

Councilmember Chock: You are leaning towards, "No..."

Councilmember Kualii: No need the veto.

Councilmember Chock: I want to hear from everybody.

Councilmember Hooser: I am actually leaning the other way. This new position, the ceremonial duties and I agree that that is a full-time job now, and so to give those duties plus chairing the Council, I think Council Chair Rapozo would say that the Chair of the Council is a full-time job too. It seems like too much for one (1) person to do both of those jobs and I am bothered by the lack of the veto and the current Mayor, while their staff is watching our meetings, they are not involved in our discussions on a regular basis. If we pass something here that is controversial or decisive or might need veto oversight, the Mayor will hear about it from constituents. He or she may obviously have their own opinion, but they will get pressured. Even though it will not be used very often, I think it is an important tool to have. The more I think about it the more...the Mayor that has veto power, the Mayor that has the so-called, "ceremonial duties" and can participate in the discussion just like the Mayor now, I think the Mayor now has the power to participate. That is where I am leaning, but I will defer and really at the end of the day when we actually have a draft document, if the draft comes out without a veto power, then I would do the research necessary to suggest an amendment, if that was the will. Thank you.

Councilmember Kaneshiro: I am no help. I am indifferent. I do not know. It is still early in the game to see which way it is going, but I am willing to just continue listening. Whether it is seven (7) and a Mayor or seven (7) Councilmembers including the Mayor and no veto, I am indifferent.

Councilmember Kualii: At the risk of stating the obvious, I think there are some people that are interested in the Council-Manager system to be more efficient and less costly. Having seven (7) positions versus eight (8) positions, you are paying for one (1) more position. Is that sole responsibility of veto so important and would be needed so often that it is worth paying for an additional position?

Mr. Taylor: Earlier I said it was simple if you just go to the Mayor voting in a 3:3 situation, but a couple things come to my mind. If the Mayor has the ability of being counted to make a quorum and an issue is up to vote, then how would that be dealt with? I am having to eat my words a little bit, but the other is under the circumstances, would the Mayor have the ability to make and second motions if you went the route of him only voting on a 3:3 tie? On the current discussion of the possibility of eight (8) members, I would suggest going to a

possibility of six (6); five (5) Councilmembers and a Mayor, instead of going to eight (8). Thank you.

Councilmember Chock: Okay. I will go as far as looking more into this a bit more to see if we can get some specific examples that a separate Mayor as part of this body and how that applies to the veto. Chair, we are at the veto still and there is a request for more information on it, therefore I will look into that.

Council Chair Rapozo: Okay. Anything else?

Mr. Gerald: When you say you do not really use the veto and the reason why you rarely use the veto is because subconsciously the Council always thinks about the issues that they addressing and how and if it can pass with approval of the Mayor or if there is going to be a contested issue. I think that itself is the balance that it does cause in your deliberations to look at how it is going to muster the Administration. It is a balance. I know we are talking about veto, but I really think that you need to determine that part first and then address whether you are going to have eight (8), seven (7), six (6), or whatever the number of Councilmembers in here. If you keep that, to me, you are going to have to work around that as to how you are going to put the number of people that makeup the Council. All I can see with this whole idea is we are going to see a substantial amount of cost to put this whole thing into play. A good example was when we had the County Auditor. What cost did it take to establish that office? When I hear people say that we are going to reduce cost, we are going to see a lot more cost with this proposal, in total.

Council Chair Rapozo: Any other discussion as far as the veto power? Again, this list is no specific order after the initial four (4) items. The other big decision that has to be made is the...I mean showing on here is the Managing Director because that was also a Charter change, and in this scenario there would be no Managing Director or Charter requirement for the Managing Director. The County Manager would dictate the staff that that person needs and that is something that we need to decide here. Again, it is a different system. The Managing Director, is that something that we would need to delete out of the existing Charter? I would say that there would be no need for a Managing Director, as a chartered position. The County-Manager may decide to get an administrative assistant, deputy county manager, but as far as the Managing Director and the roles as it is described into current Charter, that would not be necessary, in my opinion.

Councilmember Yukimura: Or you could change the Managing Director position into the county manager section.

Council Chair Rapozo: Yes, I guess what I am saying is that that existing Charter section would be removed. Let us go right down the list as far as department heads. I would assume that the County Manager would be responsible for appointing all department heads. What are your thoughts?

Councilmember Kualii: I agree in that except that we have to consider if then we are talking about the ones that currently are appointed by their Commission.

Council Chair Rapozo: Correct. All of the currently appointed positions that are appointed by the Mayor would be appointed by the county manager.

Are there objections to that? We are talking about Public Works, Parks, County Attorney's...

Councilmember Kuali'i: Except Police, Fire...

Council Chair Rapozo: If you go to the second page and we get to where it says, "Department Heads." All existing department heads appointed by the Mayor will be appointed by the county manager. Nothing will change there. Now, we go down to the County Attorney, currently appointed by the Mayor, that would remain? Not the Mayor, the county manager.

Councilmember Yukimura: In the model charter, it offers three (3) options. One is appointed by the Mayor, the second is appointed by the Mayor and subject to confirmation by the Council, and the third is appointed by the Council – I think.

Council Chair Rapozo: You are talking about the county manager, right, appointed by the County Manager?

Councilmember Yukimura: Yes, excuse me, appointed by the County-Manager, appointed by the Manager approved with confirmation by the Council, and then appointed by the Council, I think, is the third one.

Councilmember Kuali'i: Sounds right.

Councilmember Yukimura: Do you remember, Peter?

Council Chair Rapozo: I would suggest that the County Attorney be appointed by the county manager with a confirmation of the Council because that gives the public an opportunity to participate.

Councilmember Chock: My take on all of this is that one of the powerful things about this system is that the manager does have that oversight in order to take responsibility, so there is complete hierarchy of accountability between the Council and the manager and on to the department heads. By stripping half of those away, the Planning Director, Chief of Police, Fire Chief, Liquor Control, and Human Resources, I think it diminishes that accountability and what this system was set up for.

Council Chair Rapozo: So you are saying County Attorney, Planning Director, Police Chief, Fire Chief...

Councilmember Kuali'i: Everything.

Council Chair Rapozo: ...all of them would be appointed by the...okay. I would agree. If you are looking at best practice and the best way...it is kind of hard to inherit a team that you are not really comfortable with.

Councilmember Yukimura: I agree. I think though that we need to check Hawai'i Revised Statutes (HRS) with respect to Director of Human Resources. I think that is somewhat governed by State law and Liquor. Liquor and Human Resources, we have to see what the interface is with State law and that is why I asked for all the

provisions that we may have to ask to be amended in the State statute. I do not know exactly what the interface looks like.

Council Chair Rapozo: If I am not mistaken, did the Administration not convert the HR Director over to civil service? No. It is appointed by the Mayor. Not the Commission.

Councilmember Yukimura: It is by the Commission.

Council Chair Rapozo: I know it was, but I thought there was a change. That was a Charter Amendment, if I am not mistaken.

Councilmember Yukimura: No. Appointed by the Commission.

Council Chair Rapozo: Okay, so aside from HR and Liquor you said?

Councilmember Yukimura: Yes, I think it makes sense for both of those positions to be appointed by the Managing Director, but I think there are complications with respect to State law. That is why I am saying we have to look at that and see what...

Council Chair Rapozo: Borrowing that prohibition from State law, you are saying that all department heads should be appointed by the county manager.

Councilmember Yukimura: Yes.

Council Chair Rapozo: And confirmed by the Council?

Councilmember Yukimura: No.

Council Chair Rapozo: No? Just outright authority?

Councilmember Yukimura: Yes. I think best practice is that.

Councilmember Chock: I do not know.

Councilmember Yukimura: I am pretty sure, but we should find out.

Council Chair Rapozo: Okay.

Councilmember Yukimura: Otherwise, there is a real mix of policy/politics.

Mr. Taylor: Right now we have a number of positions appointed by Commissions and I certainly want to see that disappear and these are important positions. I think the way to do it and take politics out of it is that these individuals, I think there are five (5) different positions that are currently in place by the Commission, that a job description for that position and again hiring outside people to look at all of the applications and narrow it down to three (3) with the Manager coming and looking at the three (3), and identifying his preference which he then comes to the Council with his recommendation. You would be looking at the three (3) possibilities, but weighing his recommendation and making the final approval based on his recommendation. I think that way you take out all of the

politics of hiring these important positions. Some of the reasons and I will take the Planning Director, for example, is a very important position for the long-range activity in the community. The majority may be at odds with the Manager on the direction and who should oversee that department. With you having...he is going to make the recommendation, but you have the option to adjust accordingly, but I do not see that he would be picking somebody that would not fall in line with the direction that the Mayor and Council has set forth. This way takes the politics out of the issue and brings it down with what you are actually dealing with – if twenty (20) people apply for the job, you are not dealing with those twenty (20). The headhunter group is doing that and they are narrowing it down and each one of these things as they are advertised is based on you writing the description of what you are looking for.

Council Chair Rapozo: I got it. Thank you.

Councilmember Hooser: In looking at balancing of power and I think that when we hire our Managing Director, she will have tremendous authority. To give her the ability to hire all of these positions without any look at all by the Council, just seems a little weird. We never not approved someone that I can remember. We always approve the Mayor's choices as it stands now, so it is likely that when our new county manager selects people, she will do it diligently and do her homework and have good qualified people here. It is likely that we would approve them. It would be very rare to disapprove, but I think because the proposed shift is so great, that it might be prudent to at least have the Council look at them and give them our blessing. I do not know...rather than give this person carte blanche and we do not even know who she is hiring or not hiring.

Council Chair Rapozo: I would agree that the Council should have the confirmation power of the appointments of the county manager, no doubt. I think that is what I believe.

Councilmember Yukimura: No, that would really start to mix the management and the policymaking. You have to let the manager make their decisions about who they are going to have on their team to manage and they have to be accountable to the manager, not to the Council. That is the whole power of the...and the confirmation power is so weak because you cannot bring up your real concerns about people and they are only members of boards and commissions. They are not the day-to-day managers in the departments. That is the *kuleana* of the manager and if she does not get the results that we want based on our policies, we release her, but we do not try to determine or influence who she hires to manage.

Council Chair Rapozo: Did you folks hire a female for this position?

Councilmember Yukimura: No, it could be "he" or "she."

Council Chair Rapozo: Because I stepped out and I apologize, I thought maybe you hired a female.

Councilmember Hooser: The conversation has been "her."

Councilmember Yukimura: Nobody objected to "he," so why are we objecting to "she?"

Council Chair Rapozo: I think it is cool, but I thought I missed something and I just wanted to make sure.

Councilmember Hooser: I did that intentionally because the conversation has been very focused.

Council Chair Rapozo: And I am not complaining.

Councilmember Hooser: I think we should be cognizant of that, quite frankly.

Councilmember Kualii: I said, "He or she."

Councilmember Hooser: To be clear, I am not talking about approving department heads.

Councilmember Yukimura: That is what we are talking about.

Councilmember Hooser: No, we are talking about commissioners.

Council Chair Rapozo: I was talking about department heads.

Councilmember Yukimura: No, we were talking about department heads.

Councilmember Hooser: Okay.

Council Chair Rapozo: But we have to talk about commissions as well.

Councilmember Hooser: I am talking about the same positions that the Mayor currently approves.

Councilmember Kualii: The commissioners.

Councilmember Hooser: I apologize if I misspoke.

Council Chair Rapozo: The ones that are currently appointed by the Mayor...just the Mayor...we talked about that. That authority would transfer over to the county manager.

Councilmember Hooser: Yes, right.

Councilmember Yukimura: But that is still department head. We are only on department heads.

Councilmember Kualii: We are not on commission members.

Council Chair Rapozo: Right. Now, we are talking about the department heads that are appointed by Commissions, today, Police, Fire, Planning, Liquor, and HR.

Councilmember Hooser: That we currently have oversight over?

Council Chair Rapozo: No.

Councilmember Hooser: Okay, then I misspoke.

Council Chair Rapozo: The only one we have is the County Attorney, but for the other commission appointed positions that remain today, those five (5) I just mentioned, what is your position that the county manager would be able to appoint them?

Councilmember Hooser: Instead of the Commission appointing them.

Council Chair Rapozo: Yes.

Councilmember Kualii: With Council confirmation.

Councilmember Hooser: I had the wrong question.

Council Chair Rapozo: The question is with or without Council confirmation.

Councilmember Kualii: With. Like the other directors.

Council Chair Rapozo: Okay, Councilmember Kualii says all directors should be confirmed by the Council, and Councilmember Yukimura says no, Councilmember Hooser?

Councilmember Yukimura: There is no director right now confirmed by the Council except the County Attorney.

Council Chair Rapozo: Correct.

Councilmember Kaneshiro: Why do we have to confirm the County Attorney too? If you look at all the department heads, do we want to confirm all of them or do we not want to confirm all of them?

Council Chair Rapozo: The only reason we confirm the County Attorney is because he serves us. He services us as well.

Councilmember Yukimura: Yes, directly.

Councilmember Kualii: My point of why Council should confirm these is because right now there is a body, the commission, that is involved in their selection and if that is no longer the case, then another body that is elected by the people should play a role in that and not just leave it to one higher person. The existence of these commissions being involved tells you that it has some deeper connection to the community that needs to have more community involvement and by no longer having those commissions, the Council stands in. That is how I see it.

Councilmember Yukimura: I can tell you why the Planning Director is appointed by the Commission. It was to insulate him from the politics, him or her, excuse me, from a political body because Planning is supposed to be a long-term thing that does not change with the whim of the political people. With the Managing Director that is not an elected position. You are still insulating the Planning Director



from the politics. If you put a confirmation by the Council, you are adding in that political manipulation or influence.

Councilmember Hooser: What about the Police?

Councilmember Kualii: It is all the same.

Council Chair Rapozo: We are grouping it up. If we wanted to take one out and treat any one differently, we can do that. Right now, we are saying that the department heads would be appointed by the county manager and we have to make the determination whether or not it would be with or without confirmation.

Councilmember Hooser: And appointed and removed.

Councilmember Yukimura: Yes.

Councilmember Hooser: Some are clearly more important than others.

Council Chair Rapozo: Okay.

Councilmember Hooser: Police Chief runs a paramilitary organization...

Council Chair Rapozo: Remember, we are not getting rid of the Commission, so I think the oversight and complaints would all be handled by the Commission.

Councilmember Hooser: And the hiring and firing of the Police Chief.

Council Chair Rapozo: That is what we have to discuss. I feel that that power should remain with the Commission, that civilian oversight...please come up if you have something to share...for the Police because what you do not want is you do not want the Mayor or the county manager to have a personal police force. That is just the reason why we have the commission structure. I think for the Police, that position should remain. Mauna Kea, you look like maybe I have crossed some line.

MAUNA KEA TRASK, County Attorney: I think you are putting the right thought into this issue because for example, specifically regarding Police Commission, there is that current pending case before the Intermediate Court of Appeals (ICA) that talks about what hire and fire mean. You made a distinction between the day-to-day, the complaints, and all of those kinds of things, is that with the hire and fire authority, is the day-to-day included that or is it not? With the current ruling, there may be a different ruling – it is kind of potentially influenced right now.

Council Chair Rapozo: We will not make that same mistake again. When we draft this charter, it will be very clear as to the duties and responsibilities of the commission.

Mr. Trask: I just wanted to remind you about that.

Councilmember Yukimura: I just wanted to say it is really a questionable functionality to have a lay body of people who do not see the day-to-day work of a manager. Think of a corporation that would have the managers appointed by a lay body that is not accountable to the Board of Directors or anybody that is the one who hires and fires a manager. It is not very functional at all. If you want performance, you do it with a Chief Executive Officer (CEO) and everybody under the CEO is responsible to the CEO, because otherwise you have a divided accountability and it is extremely hard to manage and I think the County-Manager system calls for that kind of accountability so that the manager can do their work and if they cannot do their work, he or she is the one who is out. But you have a lay body that does not see the day-to-day work of the...

Council Chair Rapozo: The only difference between the Commission and the Council is that we get paid and they do not. We are lay people too. We do not know the day-to-day of what the Police Commission or the Planning Commission does. You would hope that this county manager as they would appoint their commissioners would appoint commissioners, that are up for the challenge and that are going to participate. If that is not happening...I would not say that is not happening. I think the commissioners today, especially the Police Commission, I think they are very active. They know a heck of a lot more what is going on in the department than we do here and we get paid. Again, not to be cruel or anything, but I think that "lay person" terminology to the commission is...it is true in a sense, but they are a lot more involved than a "lay person" is.

Councilmember Yukimura: That is true of a Police Commission that is handling community complaints, but it is not true of the management format. If every time you have a problem, you as the manager, have to go and talk to the Police Commission about it and you have to follow Sunshine Laws, you have to get through executive session, and you have to do it six (6) days before. How do you manage like that if you have a crisis that you want to deal with and you have to get the cooperation of the Chief of Police? And you do not have the power to hire and fire, therefore the Chief of Police is not accountable to you.

Council Chair Rapozo: I am saying that the Commission would have the hire and fire.

Councilmember Yukimura: No, and that is what I am saying. To put it in a lay body and then to have a manager have to go through the lay body to do all of the management of this person is not workable. Is there any corporation that does that?

Councilmember Kualii: Is it still the Manager's call? It is just the board's confirmation.

Councilmember Yukimura: The Manager has very little power if they do not have the power to hire and fire.

Councilmember Kualii: Yes, they hire and they fire.

Councilmember Yukimura: No.

Councilmember Kualii: With confirmation.

Councilmember Yukimura: Of the Commission?

Councilmember Kualii: Yes...or of the Council.

Councilmember Yukimura: The Council is a political body. You are going to have the Council saying, "If you do not appoint somebody, we are not going to approve it." Is that what you want?

Councilmember Kualii: Everything is political. The current system is political.

Councilmember Yukimura: No, no, no.

Councilmember Kualii: The Mayor is political, the Commissioners that he puts in place is political...

Councilmember Yukimura: Then why are we discussing it?

Councilmember Kualii: What is wrong with political? People step up and participate in politics because they are representing communities.

Councilmember Yukimura: It is wrong when a person is hired for political reasons rather than for qualifications and merit. That is what we are trying to take out of the system. Right now there are people that are hired politically, but not on merit. We have experienced that here on the Council. We have given input to that system.

Councilmember Kualii: So the county manager selects and the County-Manager is not a political position.

Council Chair Rapozo: Mr. Gerald, you had something to say?

Mr. Gerald: I think that when it comes to the Police, I believe that the power to hire and fire should be that of the Commission. I think the foundation of that was so that you would isolate the Mayor or any kind of political influence directly on the Chief. I think there is a separation. A good example was, look at our current Planning Director, how was he appointed? If you think back of the direction of what happened, who stepped in?

Council Chair Rapozo: Exactly.

Mr. Gerald: The Mayor stepped in indirectly and directly. When we are talking about these things, yes, you have rules, but if it is not followed then...my concern is the anticipation to a certain point for a county manager is a superman. How much are you willing to pay for somebody like that?

Councilmember Yukimura: A lot because you save a lot of money.

Mr. Gerald: Do you think you are going to save? You are not going to save.

Councilmember Yukimura: By getting a good manager. Bobby, your point about the Planning Director, it took years to make the change and there was a lot of

damage done during the time it took to make the change that we are still dealing with today. That is what I mean about how unwieldy it is to have the Mayor...he has to wait over a year to get a performance review and to get his commission members appointed to the commission so he could make a change. You cannot have a really high performing corporation with that kind of bureaucratic difficulties in management.

Council Chair Rapozo: I am going to reel it back.

Councilmember Hooser: To simplify it, we should do one by one.

Council Chair Rapozo: I was just going to suggest to take the Police.

Councilmember Hooser: I agree that the Chief of Police should be hired and fired by the Commission as we sit here today, not by the Manager.

Council Chair Rapozo: Right. I do not know what the Supreme Court ruling will be, but I would also agree that everything in between should be by the Commission and not have an external party or body be able to discipline, whether it is the Mayor, the Council, or anybody.

Councilmember Hooser: Right. I guess that is the bigger discussion.

Council Chair Rapozo: But for right now, let us take out the Chief of Police and the Police Commission because I want to get some of these things checked off. County Attorney, county manager appointment.

Councilmember Hooser: With our approval.

Council Chair Rapozo: Obviously, appointed by...

Councilmember Yukimura: Appointed by the Manager and confirmed by the Council.

Council Chair Rapozo: Okay.

Councilmember Hooser: Thank you.

Council Chair Rapozo: Planning Director.

Councilmember Yukimura: Appointed by the Manager.

Council Chair Rapozo: And no confirmation by the Council?

Councilmember Yukimura: No.

Council Chair Rapozo: I hear two (2) of you. Anyone else? Are you okay with the sole authority to the Manager? Councilmember Hooser.

Councilmember Hooser: I am okay.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: I am not sure.

Council Chair Rapozo: Fire Chief.

Councilmember Yukimura: Appointed by the Manager.

Council Chair Rapozo: It is not as serious to have the county manager have a personal fire department...that is not a very big issue. So, Fire Chief would be appointed by the county manager without confirmation. Liquor Control, same?

Councilmember Yukimura: Yes. As long as we can reconcile State statute.

Council Chair Rapozo: And HR.

Councilmember Yukimura: I think he or she has to be appointed by the CEO.

Council Chair Rapozo: The Manager?

Councilmember Yukimura: Which is the Manager.

Councilmember Kualii: Did you skip Water?

Council Chair Rapozo: Yes.

Councilmember Yukimura: We have to keep Water out because it is a semiautonomous body.

Council Chair Rapozo: Well it is semiautonomous based on the current Charter.

Councilmember Yukimura: I mean if you want to take on that whole issue in the County-Manager form of government charter amendment, I do not advise it. It just muddies the water. I would keep it as it is and then later on, if the County-Manager form of government passes, work on Water if you want to work on Water.

Mr. Trask: I just want to add something, and this is not meant to be advocacy though, at all. What you are doing right now, planning and building and water, this in the frame of specific issue – housing, they are all are so closely interrelated that if you are looking at consolidate and efficiency, you may want to look at like Council Chair said, the Hawai'i Government Employees Association (HGEA) case states that Maui County Charter could do what they did with the Water Department and bring it in. Again, I am not trying to advocate, I do not want to put anyone off, but really think about that if you are looking for efficiency and control of development. They are super interrelated. You may want to put a little more thought into that and just saying, "We are not going to do that right now," because it is important.

Council Chair Rapozo: I really do not want to get into the discussion of the Water because like Councilmember Yukimura said, that is complex. This is an opportunity though to have that discussion, but right now it is a semiautonomous agency. Unless you folks want to get into that now, but I want to stick...the focus of

today's workshop was the County-Manager form of government and I kind of wanted to get those details in place, whatever we can agree on.

Councilmember Kuali'i: Why is it listed here? Is it other than...there is a Board of Water which operates like a commission, right?

Council Chair Rapozo: Right.

Councilmember Kuali'i: But who appoints the commissioners on the Board of Water?

Councilmember Yukimura: The Mayor does and we...

Councilmember Kuali'i: So they still very much operate like another commission. In those instances where we said, "county manager alone," "county manager with Council confirmation," or "county manager with Commission confirmation," we still have to consider that because there is no longer a Mayor to appoint those commissioners to the Board of Water.

Councilmember Yukimura: That is on the next page – Boards and Commissions appointments.

Councilmember Kuali'i: Right here, "the Selection of the Water Department Manager."

Councilmember Yukimura: So we leave it with the Commission.

Councilmember Kuali'i: Is it with the Commission?

Councilmember Yukimura: Right.

Council Chair Rapozo: Right now, the Mayor appoints the Board of Water Supply with the approval of the Council.

Councilmember Kuali'i: Like the Police, it would just be, "By the Commission," and not by the county manager with the Commission confirmation.

Council Chair Rapozo: That is the discussion that I am suggesting that we put off for now because that is a big discussion.

Councilmember Yukimura: So we let the Commission select the Water Manager as they are doing now unless we change the whole character of the Water Department, but I do not suggest we do it in this charter amendment that we are working on because that is two (2) big issues. People will start voting basically on whether they want the Water Department to be semiautonomous or not rather than whether they want the Council-Manager form of government. Keep it as-is and change it later, if you want to.

Council Chair Rapozo: Anyone else? So is that a yes, to what Councilmember Yukimura is saying or is that a no, to what Councilmember Yukimura is saying? The question is do we want the county manager to appoint the Water leaders?

Councilmember Kualiti: And the Mayor does it now?

Council Chair Rapozo: The Mayor appoints the Commission.

Councilmember Hooser: This will go to all these other commissions?

Council Chair Rapozo: No, we are only talking about Water.

Councilmember Yukimura: I just thought of something else. In the Charter, it says that the Water Board manages – this is the one commission that actually manages and does not just set policy. Peter, listen to this one. I believe the Water Department Board is the manager of the Water Department.

Mr. Morimoto: Actually, the title is Manager and Chief Engineer.

Councilmember Yukimura: And the board shall manage, control, and operate the water works of the County. That is what the Charter presently says. If we have the county manager appoint the head of the Water Department, there will be a conflict because you are mixing the management. You are saying the board is the manager and chooses the CEO of the Water Department, which is the Water Engineer. You are going to have to really change the entire structure of the Water Department. I am saying to keep it the same, keep it semiautonomous, and let the Chief Engineer be selected by the Board, which is the manager of the Water Department.

Councilmember Hooser: I think the question that Council Chair Rapozo was asking is how do we select the Water Commissioners? That was the question he asked.

Councilmember Yukimura: That is on the next page.

Council Chair Rapozo: I am trying to...

Councilmember Hooser: He said does our county manager appoint those commissioners like the Mayor does now.

Council Chair Rapozo: Yes.

Councilmember Hooser: That was the question, I believe, you asked.

Council Chair Rapozo: There are two (2) parts. The first one is who appoints the Commission and who appoints the Manager and the Chief Engineer, because right now that is the Board of Water Supply. Are we going to keep that in place and do not touch that for right now or are we going to add that appointment to the responsibilities of the county manager?

Councilmember Hooser: So the new elected Mayor would make those appointments?

Council Chair Rapozo: No, no...the county manager. The Mayor is not going to be a part of any Commission appointment.

Councilmember Hooser: Okay, so, the question is will the county manager do what the Mayor does now?

Councilmember Kualii: Fill the Commission.

Council Chair Rapozo: As it relates, yes, to the Commission.

Councilmember Hooser: And if not, what other choice is there?

Council Chair Rapozo: The Council.

Councilmember Hooser: The Council would appoint the Water Commissioners.

Council Chair Rapozo: Yes, and I am not suggesting that.

Councilmember Hooser: Right.

Council Chair Rapozo: I believe the Water Department should be treated no differently. Councilmember Yukimura has a point that it is huge. That is a big and substantial change in the way this County operates because that Board is the managing board. It is not like any other commission for any other department. The Board of Water Supply actually is tasked with the management of that Water Department. It is a different beast. If you are going to bring it under the control of the County-Manager, then I would assume that the county manager would be tasked with appointing the commissioners as well as the Department Head.

Councilmember Hooser: So even if we leave it autonomous, and I am not happy with that situation, I would like to see us move away from that, but whether this is the right time to do it or not, is not the question. If the presumption is that the county manager system is what we are working on, which we are, then it makes sense for the county manager to appoint the commissioners. That is the level of influence that she has and then we would confirm those.

Council Chair Rapozo: Correct.

Councilmember Hooser: I agree with that.

Council Chair Rapozo: Okay. That would be the only change, that the county manager would then appoint the commissioners.

Councilmember Kualii: Council confirmation.

Council Chair Rapozo: And then of course the Council would confirm.

Councilmember Hooser: Right. As we sit here today, that is the only change. I think we should look into it further if we are going to change the entire charter.

Councilmember Chock: I agree. I think it is too much to take on at one time.



Council Chair Rapozo: Yes. We covered all the Commissions. Back to the Police Department. Any thoughts on the Police Commission?

Councilmember Chock: Can you state again the reasoning behind the Police? I kind of missed the discussion on why...

Council Chair Rapozo: In general terms, the reason why Police Commissions are tasked with hiring and firing the Chief of Police is that they do not want...and I think this goes back to the original Charter language that actually came up when the Charter was written. This was the case that was used and I cannot remember the case, but it was a case back in Supreme Court and that was the minutes of the Charter Meeting when they first wrote the Charter and it said to keep the politics out of the Police Department. Basically, they did not want the Mayor to have control over the Chief of Police, therefore they came up with this Commission, the Commission hires and fires, and it should be independent from the Mayor. That is the general intent of why the Police Commission is treated differently than others.

Councilmember Yukimura: If the Chief of Police were to be under the county manager, they will not be subject to a political person. That was the concern, that if the Chief was appointed by the Mayor, the Mayor was elected, then the Mayor would play politics in all kind of ways, try to look good, and use the police force as his personal police force. Now you have a manager who theoretically is not elected, does not have to cater to give special favors or whatever, and has to perform to the policies set by the Council. The Chief of Police would be insulated from the politics by a county manager, a non-elected person and a professional manager. That is the theory anyway.

Mr. Hart: I do not agree. The idea that the county manager is going to be free from any kind of personal influence goes against human nature. It is not a robot, it is a human being. I do think I would agree with Councilmember Yukimura in that the county manager has to perform and if he does not perform well, and what is the bottom line of his performance that he runs whatever he is responsible for well. That is subject through the checks and balances of this Council and also the people. In regards to the Police, I am in agreement with Council Chair. I do not want any more political influence over the police force then is absolutely necessary for the police to be able to do their job. It is a very serious occupation.

Councilmember Chock: How are they different from the other departments in the discussion that we are having? I do not see why...

Councilmember Hooser: They carry guns.

Councilmember Chock: Oh, is that why?

Councilmember Yukimura: How is that different?

Councilmember Hooser: There is no shortage of examples in history of power being concentrated, elected or appointed, and if you give someone the treasury, the Finance Department or any individual all of this and then you give them a police force that they hire and fire the Chief of Police is just not...an accountant would say this is not a good thing in terms of money management. I think there should be some separation. It is not political, it is just power in general.

Council Chair Rapozo: Police are the only people on this earth that can take your rights away. They have that ability and authority...I see Councilmember Yukimura shaking her head, but ask...

Councilmember Yukimura: The Planning Director can.

Council Chair Rapozo: I am talking about your civil rights. The Planning Department cannot take you to jail. They cannot take you to the police station.

Councilmember Yukimura: Oh, yes, they can.

Council Chair Rapozo: Give me an example, Councilmember Yukimura.

Councilmember Yukimura: They can take you to Court and you can be jailed.

Council Chair Rapozo: No, I am talking about from this building to jail. The Planning Department cannot do that. There is due process for the Planning Department, the Department of Public Works, and everywhere else you go. No one has the authority to take your body and put it in a jail other than the police. That is why you cannot have that control by one (1) person. I am not saying that that happens here on Kaua'i, I am just saying that is the mentality behind the reason to have a civilian body to oversee the Police Department and not a politician. No one can take you to jail.

Councilmember Yukimura: But the Managing Director is not a politician. That is the whole concept of the Council-Manager form of government.

Council Chair Rapozo: I am in agreement with you, Councilmember Yukimura. I am just trying to define the reason why all of that came about. I was trying to answer Councilmember Chock's question.

Councilmember Hooser: There is a book titled *The Story of Robert Moses* who is the most powerful person in New York City history. He never held elected office, but was in a position of controlling the budgets, he had his own police force, he outlived all of the politicians, it is a famous story and it is required reading it. I would encourage all of you to do that.

Councilmember Yukimura: And so the controls are in the ethics law, in the transparency requirements, in the performance requirements, in the qualifications of police chiefs, and in accountability of the charge that we give to department heads via the county manager in terms of what you want performance wise. That is where the controls come and if you want a really professionally run County, that is what you need. Robert Moses got to do what he wanted to because politicians let him. They were not held accountable either and that is why there were failure, failure of political courage and the governance procedures.

Mr. Hart: Again, the county manager is not a political, but in regards to this issue if you look at human nature and I would not want to think that this would happen, but say the county manager is in a difficult position and by

manipulation of the Police force he can make his position easier, I do not want that. Not in regards to the police force. I do not like to have to think in terms of poor behavior or that kind of behavior on the part of anybody, but I think that we have to realize it is a reality, it does happen, and we have to go against it. I do not want the county manager to be able to manipulate the police force in any manner.

Mr. Taylor: I think it is important that you give the manager the ability to hire all of these people, otherwise it is very difficult to hold him accountable for any department or activity he has no control over. I think where the Council comes in on this issue is in writing the job description. When a department head is to be hired, the manager comes to the Council with a job description, you discuss it and make recommendations for changes, and adopt that and he goes out and hires the department head based on that job description. Therefore, you are out of the picture as far as hiring the individual, but you are part of the discussion of the job description itself, and I think that would solve a lot of the problems. As far as the Water Department is concerned, I still think that the Chief Engineer under the...you talk about rewriting the entire Charter, so the Chief Engineer becomes a deputy department head under the manager and still runs the operation, but it is done under the full management of the full County. Thank you.

Council Chair Rapozo: Police Chief, selected by the commission, who is appointed by the county manager. That is what I would suggest.

Councilmember Kualii: Does that mean appointed and confirmed?

Councilmember Hooser: Yes.

Council Chair Rapozo: Yes.

Councilmember Hooser: The Commissioners.

Council Chair Rapozo: You are talking about the Commissioners.

Councilmember Kualii: The Chief is appointed by the commission and confirmed by the county manager.

Council Chair Rapozo: No, I am not suggesting that.

Councilmember Kualii: So, commission only.

Council Chair Rapozo: Yes. If you want to depoliticize it, that is the only way you can do it.

Councilmember Kualii: Just like the Water Department?

Council Chair Rapozo: Correct.

Councilmember Hooser: I just want to point out that because the county manager is appointing the Commissioners, that further depoliticizes...

Council Chair Rapozo: Correct.

Councilmember Yukimura: They are staggered terms.

Councilmember Hooser: As the process moves forward, as new Commissioners are appointed, et cetera, they are not appointed by a political person or appointed by the manager.

Council Chair Rapozo: Or confirmed, you know.

Councilmember Hooser: Yes, so that would move it in the direction of further depoliticizing.

Council Chair Rapozo: I think if you read the minutes of our Founding Fathers that wrote the Charter, that is what they had envisioned.

Councilmember Yukimura: There is no politicization if it is not a political figure appointing, so you have the depoliticizing when you have a county manager. You do not have the managerial accountabilities that you need. You cannot have a CEO that has somebody accountable to them that is hired or fired by another body that does not watch the day-to-day actions of the manager. You are tying the hands of the manager and you are not going to be able to get the kind of performance you want. This is the Council saying we want performance of the Chief of Police and the department in these areas, but the Chief of Police is accountable to a lay body that does not have the day-to-day knowledge and oversight. Therefore, you are not going to have the ability of the county manager to actually work with the Chief of Police.

Council Chair Rapozo: I ask permission to be real for a second. The county manager is going to appoint these commissioners. This county manager is not running for political officer. This county manager is going to be a professional individual. This county manager is not going to appoint people that have held signs, or supported the election, or the campaign. This is going to be done by a professional who is going to pick professional people to sit on commissions regardless what party you are on or who you voted for that does not matter, because that person does not get elected. Maybe I am thinking in a perfect world, but I have to believe that if we pick the right county manager and it would not be us, obviously, because by the time this passes, a couple of us will for sure be gone. Whoever is sitting here will pick a manager that they believe is professional that is going to pick the right people to put in the right positions. We do not have that and I am not just saying this administration, every administration going back. That is how you take care or reward your supporters, you put them on a commission.

Councilmember Yukimura; Or you hire them.

Council Chair Rapozo: I am not saying that is a wrong thing, but I am saying that is the reality and that is not going to happen if you have a professional manager that does not get elected or run for office. I strongly believe that for the Police, that you have to have the civilian oversight and authority because that will just keep the politics out. We say that the county manager is not a political person because he is not elected, our County Clerk is not elected, but do you think that is not a political appointment? There are politicians who picked her. I think like Councilmember Kualii said earlier, this is politics. Welcome to the real world. Every part of this is politics. You can only depoliticize so much. I am just saying that civilian oversight, to me, is the safest and it is just my opinion.

Councilmember Yukimura: My point of having the manager appoint the Chief of Police is not about depoliticizing. It is about what the most functional management structure for getting high-level performance is.

Councilmember Chock: I am not convinced yet that we need a commission to oversee it, but in the broader scope of whether or not I would vote on, this would be a deciding factor for me, I do not think so.

Council Chair Rapozo: Not a deal-breaker?

Councilmember Chock: No.

Council Chair Rapozo: Me neither, to be honest. It is not a deal-breaker for me.

Mr. Hart: I am actually agreeing with Councilmember Yukimura to some degree. I am not saying that the county manager should not have authority in regards to the Chief of Police. I think that to say that the county manager did not have any authority at all regards to the Chief of Police could create real problems. I am just not saying that I think the county manager should have complete authority over the Chief of Police. I think that is vested best in a commission. I do not know exactly how you would work that this authority, but that is really my position. All this is, is a workshop and coming up with ideas, but I would rather have the Police, the oversight be a civilian body because of the nature of what police does.

Councilmember Chock: There was an idea of commission confirmed that Councilmember Kualii brought up. In this instance would that be an additional consideration for barrier of civilian insight?

Councilmember Kualii: If the county manager selected and the commission confirmed, would that be enough to prevent the folks in charge when he has full access to utilize the police as his personal military?

Council Chair Rapozo: I just want to make sure that the oversight of the Police Department meaning the complaints, when someone comes up and makes a complaint, that it is handled by a civilian body because then it gets addressed.

Councilmember Yukimura: I totally agree with that. I do not see that function change at all.

Mr. Mickens: I think both Council Chair Rapozo and Councilmember Yukimura are saying the same thing. You are saying that the county manager should pick the Chief of Police, you are saying that the Commission, who is picked by the county manager. You are both on the same page, basically, right?

Councilmember Yukimura: No.

Mr. Mickens: I feel a little more comfortable with what you are saying then Councilmember Yukimura having the body pick the Chief rather than one (1) person doing it. Again, if the county manager who is nonpolitical, which you are looking for, take the politics out of it, so I agree with both of you.

Councilmember Yukimura: You would make a good politician, Mr. Mickens.

Council Chair Rapozo: Again, just to be real. I am the new county manager and said, "Hey, Gary, do you want to serve on the Police Commission?" "Yes." "Do you have a problem with John Doe for Chief of Police?" "No." "You are on." "JoAnn, do you have a problem with John Doe?" "Heck yes, he..." "Sorry Councilmember Yukimura, maybe another Commission." "KipuKai?" Do you think that is what happens in the real world? Are we that naïve that we think that...Mr. Gerald, you brought up the Planning issue a while back and that is what happens. That is what happens. I am sorry to break the bad news, but Councilmember Yukimura, that is what happens.

Councilmember Yukimura: The thing is that the Commissions' terms are staggered and although in the beginning if we start the Manager, but if the Manager comes in mid-term and there is different Commissioners, he or she will not have a commission that really is aligned with him and then have to get performance and not be able to demand it. It is unheard of to have that kind of line of accountability in business and corporations. If everybody is of bad human nature, we might as well just give up because any form is not going to work.

Mr. Gerald: I need to say this even though it might be a little outside of the point you are asking about. I keep hearing this word "accountability." My question to you as the Council is, what is your authority to establish rules of accountability for all department heads and the subordinates? I think that is a more important issue than all these things that we are talking about because in the absence of having written accountability rules that you can enforce, I look at us chasing ourselves in a circle. I still look at some of the mentality that is expressed by some of the speakers regarding the Manager and I am saying, "Yes, it seems like you are looking at a superman." He has to live in the island, work with the people here, and this is a small island. It is not like you are going to bring in somebody from Timbuktu that will come inside, do the job, and then fly out. He is going to live here if he is going to be here long. You have to face that reality. To find a person like that who would assume that kind of responsibility, what is it going to cost us again? Is there a way that this Council or I do not know what body that would establish rules of accountability for people that you appoint (i.e. department heads, subordinates, assistants). I think that is our biggest problem. We have too many failures and nothing happens. A little scolding and that is it, and it goes on and on.

Council Chair Rapozo: That is what this made this system attractive to me. Currently with the separation of powers and the constitutional prohibition that we cannot interfere with what they do across the street, we have no ability to discipline. We can humiliate and embarrass, hoping that someone over there will say, "Hey, we better clean up our act so that this does not happen," but that does not happen because we see it time and time again. This system will allow us to hold the county manager accountable so there would be someone. Someone can be here and we can say, "Fix it or you are gone." We cannot get rid of anybody across the street, trust me if we could, we would have some job openings, but we cannot. That is just the nature of the current system. As much as I want to hang on to this system that we have with the separation that we currently have, you are exactly right, Mr. Gerald, the accountability – there is none. Now, what we can do is cut the budget, but now it is punishing the community though. If we want to send a message across the street and say, "We are going to cut the budget," and then the community suffers versus

bringing a county manager in here and say, "Hey, county manager, your Department of Public Works...Parks..." wherever it is, "Fix it." We do not have any ability right now other than, like you said, a little bit of scolding on the camera and I do not enjoy doing that either because it does not get any results. We do not have that ability to do anything to what is going on across the street and that is the frustration.

Mr. Gerald: From what I am seeing is that without accountability or a lack of accountability. When you have a county manager and he is the person and you can charge him with accountability or you are going to let him go. Now, I am looking at long-term. The guy is here for a year, does not pan out, you fire the man, you are going to search for another person, and in the meantime, what happens to the whole...there is a vacuum.

Councilmember Yukimura: There is an interim.

Mr. Gerald: We have to look at something that will avoid having that kind of vacuum. On that scale as the county manager, if you have it in the department head or something, that is only one area, but when you take out the whole county manager then what is the fall back.

Council Chair Rapozo: There would be a deputy county manager or assistant that would assume the role until the Council could appoint the next one. We went through it when Bryan past away, unexpected. The mechanism is in place so that you have that Managing Director or whomever it is Administrative Assistant that would assume that role until...the mechanics would have to be worked out. As far as accountability, to me, that is what is attractive about this system. It would give the legislative body or the Council a lot more accountability to what is being done. Again, everything is in a perfect world. If it sounds too good to be true, it usually is.

Councilmember Yukimura: Accountability is built in several ways, it is not just one (1) way and I am glad Mr. Gerald raised it. Accountability is done by a direction or a charge that says what you are accountable for and what results you want, but it is also the organizational chart which shows who is accountable to whom. You do not have accountability if you cannot hire and fire the person. The county manager is accountable to the Council, but in order for the Manager to perform, they have to be able to have the authority to get the performance from their department heads. If they do not, you are going to tell them, "Perform, perform, perform," and they cannot if they do not have the authority.

Mr. Arruda: I do not understand. This body has the authority to put an issue on the ballot to change the form of government, but you do not have the authority to put an issue on the ballot to change who has authority and who can require accountability? Maybe it would be easier to put that on the ballot.

Councilmember Yukimura: That is what we are putting.

Mr. Arruda: Instead of changing to a County-Manager type of system. Have the Charter change so that you can require accountability from that side. That might be easier. I listened to what the Judge said and I have to admit that I do not know the County Charter, I have not sat down and read the entire Charter, but I judge things by common sense or try to. With all the years of building and amending our existing Charter, what has gone wrong? Maybe the Council should exercise their rights and powers granted to them by the existing Charter. If you folks

remember when I first appeared before this Council back in June or July, I said that I was not completely convinced that Kaua'i was cut out for a county manager system. Bobby brought up the point that Kaua'i is a small island and the county manager will still have to live here on this island. That was one of the things that bothered my back then, I realize that. I keep thinking is this proposed change to a county manager system may be a different way to get around some of the more unpleasant and unpopular possibilities granted by the Charter as it exists today. Like I said, I do not know everything that is in the Charter, I have not read through it, but I am just wondering, is this what we are trying to avoid some of the more unpleasant ways to take care of business here and is this why things have gone wrong here? I do not see how this Charter has been in existence for so long that has been built on and amended so many times and we still have a problem. There are a lot of other communities in this Country that are run by a Council-Mayor system, are they having the same problems that we have or is it because we are such a small community that we have the problems?

Council Chair Rapozo: I do not know. I will tell that in my travels across the Country with NACo, I think we share a lot of the same problems with other jurisdictions and Council-Mayor systems and County-Manager systems. A lot of the problems are similar for everybody. I am not sure if Kaua'i is any different. Two (2) year elections for Council might be an issue because the Councilmembers do not have an opportunity of four (4) years to do their work. They are working a year and then it is election time and everybody behavior changes during an election year. I am just being real. I am speaking for myself as well. We are maybe a little more careful and we want to explore more. The first year after election, you are little more gung-ho. There are a lot variables that go on, I do not know if you can pinpoint to any single one of them, and of course you have the money issue because we have limited funding, every Councilmember has different agendas and priorities. I do not know if you can pinpoint anything down to one. I think what Mr. Gerald was talking about, the fact that we really do not have the ability to hold anybody accountable except our staff here at Council Services or Elections, it plays a big role. If you watched yesterday's meeting regarding the GET, you see a lot of shortcomings that occurred and not just this term or last term, not this Mayor or the last Mayor. It goes back pretty far. Is it all their fault? No. Is it the Council's fault? Yes.

Mr. Arruda: Is it possible for this body to put an amendment on the ballot for the people to vote on to hold them accountable?

Council Chair Rapozo: Let me just say that the Constitution provides for a separation of power, which means the legislative body cannot interfere with the administrative body. That is the Constitution.

Mr. Arruda: The State Constitution.

Council Chair Rapozo: Yes. This method would basically, because we are restructuring our own home rule right or utilizing our own home rule right to change the structure of government, in essence you would get rid of the separation of power, the way it exist today. But absent changing of the system, there is no way you can get around the constitutional mandate of the separation of power, which is strict.

Mr. Arruda: That is one of the biggest differences right there that you can hold them accountable.



Council Chair Rapozo: That is the difference. If you ask me, that is the only difference. Everything else will run the same. The roads will be paved with the same machines, the parks will be cleaned with the same toilet cleaners, and everything will be the same. The difference is that the Mayor who sits where he is now, will be here and will be appointed by this body.

Councilmember Yukimura: He will be elected, not appointed by this body.

Council Chair Rapozo: Sorry, I misspoke. The county manager...not the Mayor, will be here. As the Mayor is over there, that person will be converted to a county manager and he will be here and appointed here. You know it very well because you worked under that system for a long time, so you know how that system works. I can pull examples all day long about issues that would have been resolved years ago if that Mayor or county manager was here.

Councilmember Kualii: And county manager's come to all Council Meetings.

Mr. Arruda: Absolutely.

Councilmember Kualii: Whereas the Mayor rarely comes to our meetings.

Council Chair Rapozo: Yes.

Mr. Arruda: We had a city manager and all department heads.

Council Chair Rapozo: Yesterday I asked a few questions, and I am going to end with this because we have to take a lunch break. I asked a simple question, "How much was this big major project?" "I do not know." "How much was this one?" "I do not know." That would not happen with a county manager. I will end with that. I can promise you that if you knew that the body you are responding to is your appointing body, do you think you are going to come here unprepared? I do not think so.

Councilmember Yukimura: That is the power of appointing.

There being no objections, the Council recessed at 12:33 p.m.

The meeting was called back to order at 1:55 p.m., and proceeded as follows:

*(Councilmember Kualii noted as excused.)*

Council Chair Rapozo: We have covered quite a bit today as far as the basic structure. What I want to do is make sure that we have everything for the staff to prepare. I just want to go through and then I want to give the community an opportunity to testify. Councilmember Kualii is out because he had a medical appointment. Maybe we can get out of here by 3:00 p.m., and then schedule another workshop and go into the details of the duties because I do want to have the full discussion with all of the members. Jerome, do you have anything to say? I do not think you have ever been here before.

JEROME FREITAS: I have, but I never did talk before.

Council Chair Rapozo: Right.

Mr. Freitas: But now you do not have any live coverage right now, right?

Council Chair Rapozo: Oh, no more camera right now. Maybe we should stop the camera every week.

Mr. Freitas: Okay, very good. I can sing a song too. Do you want a song from the man, "the King of Rock and Roll? Thank you very much. But anyway, the reason I am here is because you are talking about the county manager, right?

Council Chair Rapozo: Correct.

Mr. Freitas: I have been doing the "Shadow's Corner" for ten (10) years and as far as accountability, Mr. Girald was talking about accountability. What is accountability in the dictionary? What does that mean?

Council Chair Rapozo: Being held accountable.

Mr. Freitas: From many Mayors way back, after high school, I got involved with politics. The system did not change at all. Same old, nothing changed. I know I can only talk on the subject of the county manager for of government, right?

Council Chair Rapozo: Yes.

Mr. Freitas: But I can see a lot of things that has not been done for twenty-one (21) years. Can I mention certain places?

Council Chair Rapozo: If you want to talk about accountability, that is fine. We are trying to figure out from the community is do you believe that the county manager system would provide more accountability?

Mr. Freitas: Yes.

Council Chair Rapozo: If you want to limit your discussion to accountability that is fine. We are trying to figure out if the community believes that the county manager system would provide more accountability.

Mr. Freitas: The reason why I am for the county manager form of government is because right now it has been proven that it is not working. Unless they change the system, the structure, and the liability of the Mayor, there is no accountability right now. How are you going to get him out? Never. The only thing is this. If I want to meet with them; the Mayor and the department heads, and give them a picture and they say, "When we have time, we will do it," but now I have two (2) copies, one for myself and one for them. Now, if something happens and somebody gets hurt, they have to be accountable – that is it. They might pay it off with the insurance, but that is not the thing. The thing is that they have to get the job done. I can give you a lot of ideas right now, a couple of days ago, but I am not going to

mention any names. When you look at a picture, that is the reason why I think a county manager would be a good thing. Let us try it and if it does not work, go ahead and scrap it. Like Councilmember Yukimura was saying that you need to make sure everything is straightened out...

Council Chair Rapozo: Correct.

Mr. Freitas: It might take time, but it is going to happen.

Council Chair Rapozo: As we go through these items, we are realizing that it is very complicated.

Mr. Freitas: I am not going to drift off to other places, but if you see all the pictures there and here regarding the landfill – a lot of things here.

Council Chair Rapozo: I guess what I am hearing from you is that you believe that the County-Manager system would provide more accountability for the...

Mr. Freitas: Let us say, "For the public."

Council Chair Rapozo: Yes.

Mr. Freitas: As long as we are saving money, that is the bottom line. You are going to get politics there anyway, but not as much. The question is why do you not give it a shot? Just try it. Make sure there is accountability. You have to change the Charter or something. You are liable for it. If you make a mistake, you pay for it, and that is not happening right now. The only way you can get him out is when the voters can change things. A lot of people tell me, "Jerome, when are you going to run for Council?" I told them, "I do not want because what I am doing now, I can do better because I can go straight forward to the Administration." I have the newspaper to back me up. (Inaudible) told me, "Anytime you need my help, let me know." I told the Mayor that everything will be on the front page. Other than that, I am for the county manager. Thank you very much, Council Chair, Members of the Council, and all of the staff here.

Council Chair Rapozo: I can honestly say that a lot of the improvements or stuff that has been fixed on this island was a direct result of you going to the paper and it works a lot quicker than if we put it on the agenda. Thank you. We will pass around these pictures. I have seen them.

With that, on the things that we have tentatively agreed upon...because things could change at any moment as we change other parts of this working document. We have a template from ICMA for a charter, so if we could substitute the items that we have agreed on today into that draft and then we will just keep that as a working document. At some point if it is decided to move forward, then we will have that document.

Mr. Morimoto: Run that by me again.

Council Chair Rapozo: The template we have right now of a new charter, on the items that we have discussed and tentatively approved, can we put that into the template?

Mr. Morimoto:  
item by item?

Yes. If you do mind, Council Chair, can we go

Council Chair Rapozo: That is what I am going to do right now. I am going to do that first and then we are going to have discussion, if necessary, take public testimony, call it a day, and then we will schedule the next workshop to get into it. I do not want to get into the duties yet because I just want to make sure that everything that we have done today is documented and agreed upon so there is no question. Again, I do not want to get into the real deep duties because Councilmembers Kuali'i and Kagawa are not here and we only have five (5). I am going to go down this list and we will start off by the selection of the Manager. We talked about the selection of the Manager will be done by the Council, by a supermajority, as well as the removal will be done by a supermajority.

The Selection of the Council will be done by the electorate, the voters. It will be six (6) members and there will be one (1) Mayor that will be elected by the public as well. I am going to speak in terms as if the Charter Amendment passes, in the first election, which would be in 2018, the top three (3) voter-getters of the Council race would be elected to a four (4) year term and the bottom three (3) would be elected to a two (2) year term. The following election, everyone would be running for a four (4) year term – not everyone...yes, because in the next election, you will only have that three (3) Councilmembers.

Selection of the Mayor will be done by the electorate. It will be a four (4) year term. Again, we already talked about how that selection will be made. This is where I may need some help on the memory. The Managing Director will be removed from the Charter.

Selection of the County Attorney will be done by the county manager and confirmed by the Council.

The Planning Director will be selected by the county manager.

The Fire Chief will be appointed by the county manager.

The Director of Liquor Control will be appointed by the county manager.

The Director of Human Resources will be appointed by the county manager.

Councilmember Yukimura: Those two (2) last positions have to be checked with HRS.

Council Chair Rapozo: Yes, correct.

The selection of the Water Department Manager and Chief Engineer will remain the same at this point.

The selection of the Chief of Police, I am not sure we even voted on that or what was the consensus on that. Councilmember Chock, you said it was not a deal-breaker for me. Councilmember Yukimura, you want it appointed by the county manager and confirmed by the Commission...by the way, all of the commissions will be appointed by the county manager.

Councilmember Chock: I did get a response from David Mora on two (2) things. The veto power, "This is not prevalent and not a best practice. If it does exist, it of course exists with the Mayor's authority; however, there are a very few Mayor/Council-Manager jurisdictions with any veto authority." The second one was the question on commissioner appointments. I asked the question when we were a little confused of what we were talking about, but interestingly enough he says, "general and best practices appointment of commissioners are by elected officials and not by a Manager." Ideally by the full Council and Mayor included. He is not aware of any local government jurisdictions, Counties, or Cities where the Manager appoints commissioners. Just food for thought.

Councilmember Yukimura: Did he say anything about Police?

Councilmember Chock: No. I did not ask that question.

Councilmember Yukimura: Why do we not leave it unresolved at this point?

Council Chair Rapozo: Okay.

Councilmember Yukimura: Subject to more information.

Council Chair Rapozo: Okay, we will leave the Police Commission and the appointment of the Chief of Police for a later discussion.

Councilmember Yukimura: And actually appointment of all boards and commissions. We have not really discussed that.

Council Chair Rapozo: I would lean towards ICMA best practices where the Council would appoint the Commissioners. That is not uncommon. We have appointed Commissioners in the past. It would make sense that in absence of the administrative or executive mayor, that the Council would make those appointments. It is just not a very far departure from what we had. We can go ahead and save that for another discussion as well. Is there anything else that we wanted to...

Councilmember Yukimura: That is all discussed.

Council Chair Rapozo: Impeachment would remain the same. I am just going through this list now and I am going to pick up on things that are on here that can go...I do not see the reason why the Charter change would change the impeachment process. Everyone would be impeachable because of the four (4) year term, as it is currently written.

Councilmember Yukimura: What is the best practice? That is a key check on Council.

Councilmember Chock: I do not know. I have to ask.

Council Chair Rapozo: There has to be a removal clause for the public, absolutely, and I think the current language does not specify Mayor or

Council, it just says, "Any officer elected to a four (4) year term," which would mean everybody would be covered. That language could remain as far as I am concerned.

Councilmember Yukimura: What are the standards for impeachment?

Council Chair Rapozo: There is no standard. If the public does not want you, adios. If they get the signatures, it goes...the process is in place.

Councilmember Yukimura: Impeachment is by ballot?

Council Chair Rapozo: Yes.

Councilmember Yukimura: It is?

Council Chair Rapozo: They get the necessary signatures and then it goes to...

Councilmember Yukimura: One of the things you can change is the number of signatures required.

Council Chair Rapozo: I am not sure what it was.

Councilmember Yukimura: Maybe at our next meeting we can have the wording.

Council Chair Rapozo: Yes, we will clean up the list and prioritize the list. I was hoping to get through at least the selection of the...

Councilmember Yukimura: It is called recall.

Council Chair Rapozo: Yes, recall. I would say for discussion purposes and for staff, the selection of the Commissioners, would anybody object to the Council appointing Commissioners as it is the best practice ICMA? That would be a balance. That would create the balance between the county manager and the Council.

Councilmember Yukimura: It is just like when you have to do it by group. You just have to build a system. I would just be interested in getting more information from ICMA on what their process is and how they word it. Do they just say, "Selected by the Council. Selected by majority vote."

Council Chair Rapozo: Okay.

Councilmember Yukimura: But I would be leaning toward a commission.

Council Chair Rapozo: Any other issues that we would want to be added in at this point? With that...

Councilmember Yukimura: The understanding is that the ones that we have not covered will be at our next meeting, correct?

Council Chair Rapozo: Correct.

Councilmember Yukimura: Okay.

MATTHEW BERNABE: I do not support the Manager, as you all know. I even somewhat sit here and wonder, all this time we are sitting here why are we not trying to get best practices on the ballot for manager heads and the impeachment part, if everybody wants the part that they can remove a Mayor for going down the wrong process or whatever the person in power is, why are we not just putting that on the ballot? I have pointed out why I oppose this whole overhaul versus fixing the things that are just not consistent and the rules that are not being followed that are to-date or even placing a few and then following those few to make the best practices occur with the current system. When I come up here and I oppose the Manager, it is not like I am trying to favor anybody in the Administration or even anybody in this Council. I am supporting the Councils' checks and balances that are supposed to be against the Administration. If that occurs, I think this system as-is could totally get the job done. We can get that same saving of ten percent (10%) without the overhaul expenditure of going through the time of having it in the charter. I just think we should just have the question, do you want to be able to impeach the Mayor and put some other questions that are correctly drafted and worded correctly to make the department heads have a certain criteria that the Manager is going to make them have anyway. I am going to leave it at that. I just wanted to show up and at least having somebody opposing this Manager on record today. I am going to leave and come back to the next workshop. I know it is Thursday and Thursdays are my busy days. I have cleared my schedule for Wednesdays.

Council Chair Rapozo: We will make sure we schedule it on a Thursday then.

Mr. Bernabe: Yes, schedule it on a Thursday, if you do not want me around.

Council Chair Rapozo: Thank you. Anyone else want to discuss what we have discussed today?

Councilmember Chock: We are going to go over the areas that we did not go over, which includes the budget contract, questions of eminent domain, ordinances, constraints on Council in dealing with Administration, in addition to other sections of the Charter?

Councilmember Yukimura: That ones that are listed.

Council Chair Rapozo: The items of the list of topics were items that we are going to have to address because of the change that is the Mayor's authority now. Most of these, I envision, would just transfer over to the county manager, so it is just really a change in the name. The enforcement of ethics, again, it is the Board of Ethics or the County Council that does the enforcement. Boards and Commissions appointment, that is one that I think should be standard. I do not think any commission should be handled differently as far as who appoints them. It is either going to be the county manager or it is going to be the County Council. After hearing ICMA's best practice, it just makes sense that we would follow the best practice which would be that the Boards and Commissions be appointed by the Council. Annual reports, again, it is basically a transfer of responsibility from the executive mayor, which we have now, over to the county manager. Approval of Administrative Rules, that is one that will require some discussion. I would assume that the administrative

rule changes will be done through the normal process. You have to have a public hearing. I think those two (2) are very important, but I do not believe that it will entail a lot of discussion because it is really a logistical change. Contracts as well. Who is going to deal with the execution of contracts? Again, the analogy that I have is that it will be run similar to how it run now except that the Mayor rather than sitting across the street will now be in a form of a county manager sitting on this side of the street. That is kind of what we are looking at as far as the duties of the county manager versus the existing Mayor. I think that is about it that we have on this list that we have not addressed. We talked about the duties of the Mayor and I think we had some questions regarding if we wanted an eight (8) person Council. I think Councilmember Yukimura brought up a good point, what does that person do after he is done with the ceremonial stuff. I think the seven (7) person Council would be appropriate.

Councilmember Yukimura: Impeachment is different from recall. I think impeachment is based on commitment of crime, but I am not sure. I think we should have recall in there because that is an accountability check.

Council Chair Rapozo: The current Charter says recall?

Mr. Morimoto: Both.

Council Chair Rapozo: Oh, it does say both.

Councilmember Yukimura: Yes, because it is two (2) different things, right? We need to look at both.

Council Chair Rapozo: Okay. Is it in the same section of the Charter?

Mr. Morimoto: No, impeachment is Section 23.15 and recall is a separate article altogether.

Council Chair Rapozo: What was the recall section? 27.

Councilmember Yukimura: It is with referendum, recall, and initiative. I think those involve ballot votes.

Mr. Taylor: Can I talk about Boards and Commissions? I would recommend that the Council would appoint the Boards and Commissions, and the Manager would sit as the ex-officio member of the boards and commissions. Today, you have the Mayor appointing the boards and commissions and sitting as the ex-officio member. I have seen in a number of other municipalities that they advertise twice a year for open seats. Usually for thirty (30) days, anybody interested could fill out a form, submits it, the Council then has a public meeting, usually in the evening, it is a special meeting for this purpose. Each of the candidates have five (5) minutes to...you have all of their applications as to what their qualifications are and why they want to serve, then they have five (5) minutes in a public meeting to "sell" themselves. The public at that point after that is done will have an opportunity to speak. The board deliberates and picks everybody right there in the public meeting, so where today we have one (1) individual picking the boards and commissions, now we have seven (7), and is done in a public forum. It is done by advertising and by people volunteering to come in and fill out applications. It is an open process and I think one of the things in my mind anyway in making this change, is the transparency



that comes along with all of the decision-making process. Many communities handle it this way. There are lots of different ways of doing it, but when I applied for the Charter Review Commission a number of years ago, when I turned in my application I was told that I would be called in for an interview, the next thing I heard is that they had already filled the position three (3) months later. I never did get called in and I do not know how many people have experienced that kind of a situation. The Boards and Commissions is to make recommendation to you folks, not to the Manager. He sits as an ex-officio member, but they come back and make their reports to the Council. That is what their job is as Boards and Commissions. Right now, the Boards and Commissions are tied very tightly to the Mayor and there is a certain amount of political situation. The other thing we see is that people moving from one board to another, to another, to another, instead of opening up and bringing more people in. Like I said, my experience goes completely against them often talking about, "There is not enough people that want to volunteer," but I do not believe that if you open it up, that there will be a shortage of people. You can still make recommendations to somebody and say, "Hey Joe, I think you ought to apply for this thing," but like I said you do it twice a year. In May and November, you advertised and in December, you do the hearing, and make a decision out in the open where everyone can participate and see how it all goes. I think those are the kinds of things that we are all looking forward to opening up and letting government be more transparent. I hope you will consider something similar to that.

Council Chair Rapozo:

Thank you.

Mr. Mickens: I just wanted to thank Council Chair Rapozo, again, for holding this workshop and for the rest of the Members for coming here. I think it has been very, very productive. I look forward to another workshop. I think the main thing that you have to ask yourself is do the people want and need change on this island? That is what they have to be convinced. I think from all the information I hear from people, the dissatisfaction for the many things that have gone on not just recently, but for years. I think they are ready for a change. Whether they want this type of change or not, I cannot answer that, but I cannot see any other change in the making that is out there that is going to change things from the way we have it to this. Again, you already have a blueprint out there, you do not have to do any new wheel inventing to be able to change a thing. There are too many municipalities that are already using this. I hope that you can see fit to put this on the ballot. I know that Councilmember Kagawa is highly against it, I am not sure why. I know that Councilmember Kaneshiro is not exactly in favor of it, but everybody has their own opinion. I think that the general public, if you read the letters to the Editor and talk to the different people like The Shadow, and I have to compliment that guy. He spends his own time and money going around this island for ten (10) years taking all these pictures and everything, for one reason, for the benefit of the public, safety of the public, guardrails, and on and on. I compliment him. He is showing you pictures of what is wrong and why they are not being taken care of, but we should not have to wait ten (10) years like mount trashmore out there. When I first came to Kaua'i, they said they had five (5) years and they said it would be full, and then five (5) more years. Here we are twenty-six (26) years later and they still have not gotten that resolved. Councilmember Yukimura's Materials Recovery Facility (MRF). The whole solid waste system has to be taken care of, but we are not getting it done. I am not saying that the county manager is the total magic bullet to do this, but he would certainly be something in the making that would help it. I look forward to another workshop and again, thank you so much for having us.

Council Chair Rapozo: Anyone else? Any other closing comments before we move on? I think staff has everything you need to move forward.

Councilmember Chock: I have a response. Best practice on Mayor/Council-Manager form is CM appoints all department heads. Most usual exception is the County Attorney that is appointed by the Mayor and Council. Need to reemphasize that the CM is accountable to the Mayor and Council and the elected officials are accountable to the citizens. There is a hierarchy of accountability always in place. That is the standard. Thank you.

Councilmember Yukimura: I want to thank you, Council Chair Rapozo. I think this process has been productive and I look forward to future sessions to further understand and look at the issues and share ideas. I want to thank staff for doing the prep. The outline of issues are very helpful.

Councilmember Chock: We made a request from our County Attorney about HRS questions because we could not get any real response from the State, therefore, I think that needs to be looked at further at some time or another in terms of those items in our Constitution.

Councilmember Yukimura: Absolutely. It is an area that we have to clear up. We may even need to get some amendments to HRS depending on the interface of County and State law, but one way or the other, we have to clear it up. If we have not already put in a request for legal opinion and guidance, we should.

Council Chair Rapozo: Mauna Kea just raised the issue of the Prosecuting Attorney, but I do not envision that changing. I am just thinking out loud. I just had assume that it would remain the same. Maybe we should have our Chief of Police elected too.

Councilmember Hooser: I was thinking about that.

Councilmember Yukimura: Or you could have the Prosecuting Attorney appointed.

Council Chair Rapozo: Yes. There is one (1) Prosecutor in the State that is appointed, right?

Councilmember Kaneshiro: Maui.

Council Chair Rapozo: Maui is unique in so many ways, but I was not being serious. I would assume that that would just remain the same. I do not see a problem with that. People elect them, people get rid of them. That is just how it works.

Councilmember Yukimura: Yes, and the interface with the management structure of the County, I do not think there is much that has to be looked at.

Council Chair Rapozo: Any other thoughts before we close this up? We need to look at another date for the workshop. I am thinking sooner than later. Councilmember Kualii is gone. When do you get back?

Councilmember Kaneshiro: The first week of March.

Council Chair Rapozo: Does March 3<sup>rd</sup> work for everybody? And the only reason we are waiting that long is because two (2) members are going to Washington, D.C., for the legislative conference.

Councilmember Yukimura: Are we looking at the whole day? I have a conflict, which I can move in the afternoon.

Council Chair Rapozo: We do not have to do it the whole day. It is tough on staff to do it to 4:30 p.m. I was really crazy thinking we could get it done in one (1) day, but what the heck.

Councilmember Yukimura: IT is faster than one (1) year.

Councilmember Kaneshiro: We are still here on February 18<sup>th</sup>.

Council Chair Rapozo: Is Councilmember Kualii here on the 18<sup>th</sup>? Is that a Thursday as well?

Councilmember Yukimura: Yes.

Councilmember Kaneshiro: We fly out Friday night.

Mr. Taylor: All of the department heads would be appointed by the Manager except for the Water Department? Is that correct?

Council Chair Rapozo: Yes, for now, and then the Police, we are waiting.

Councilmember Yukimura: Still up in the air.

Council Chair Rapozo: We still have not made a determination on the Chief of Police. Councilmember Chock just read a response from ICMA that said the best practice is that all department heads, with the exception of the County Attorney, are appointed by the County Manager.

Mr. Taylor: The County Attorney would be appointed by the Council?

Council Chair Rapozo: It would be appointed by the county manager with the confirmation of the Council. As much as possible I want to lean towards the best practice of ICMA only because that is what is being done. There may be some circumstances in our County that we may have to deviate, but I think for the most part if we stick with the best practices of ICMA, we would be in good shape.

Councilmember Yukimura: We are looking for a date.

Council Chair Rapozo: February 18<sup>th</sup>.

Councilmember Hooser: The 18<sup>th</sup> is a Thursday? I am free, but only until 2:00 p.m.

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Councilmember Yukimura: I have a meeting with the United States Senator from 9:00 a.m. to 9:30 a.m., and I cannot change that. Maybe I just have to step out.

Council Chair Rapozo: Is it here at the building?

Councilmember Yukimura: Yes.

Council Chair Rapozo: Maybe we will just go with a March date.

Councilmember Yukimura: March 3<sup>rd</sup>. I am good until 2:00 p.m., if we have to go beyond 2:00 p.m., I will change my 2:00 p.m.

Council Chair Rapozo: Councilmember Hooser are you good with that date?

Councilmember Hooser: Yes, full day.

Councilmember Kaneshiro: I am good, but I am not sure when Councilmember Kualii is coming back from D.C.

Council Chair Rapozo: March 3<sup>rd</sup>. We will post to 4:30 p.m., again but try to wrap up and save the last hour for recap and summary. I just want to make this thing as quick and painless as possible. Is there anything else?

Mr. Taylor: Will there be a flow chart at that meeting?

Council Chair Rapozo: I will make a flow chart for you. By then the Super Bowl will be done and I will make the road to the Super Bowl. I want to thank my colleagues today. It was a great day. Everything went smooth. I am beginning to think that maybe we should not have that camera...

Mr. Taylor: Well, there was a draft proposal in the ICMA presentations, so it should not be very difficult.

Council Chair Rapozo: I think based on what we did today, there are a lot of pockets in there that we can do...no, I am serious. I think we probably can do something like that now. Staff, thank you for being here and putting all these things together. This has been going on a long time. These folks work a lot behind the scenes and the Committee here, Councilmembers Chock, Kualii, and Kaneshiro work many hours as well with staff. I know Ken, you think it is very simple to do and I would love to think that, and relatively speaking it is, but when you start to get into the details, it is not that simple. We just want to make sure we do it right. It was always my intention to give this an honest, objective view, and have it done in the open way and that is what we are doing. To the public, it worked well today, very respectful and courteous of the time and we can work this way. Workshops can work as long as there is that mutual respect. We want to hear from you. We do not want to abuse our time and we do not want to abuse your time. We can actually gain a lot in this format, so I plan to keep the format very informal, but yet, we have to remind ourselves that it is time-sensitive. I appreciate you folks complying with that request. It was very informational. If we gave you six (6) minutes, you would have spoken for six (6) minutes. Mr. Mickens, you only spoke for two (2) minutes today because you did not

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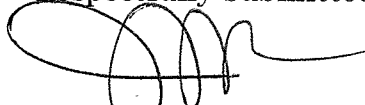
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have that limit. If there is nothing else, we will adjourn this workshop. Thank you all.

ADJOURNMENT.

There being no further discussion, the Special Council Meeting, Council-Manager Form of Government Workshop adjourned at 2:37 p.m.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by several loops and a trailing line.

JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:dmc